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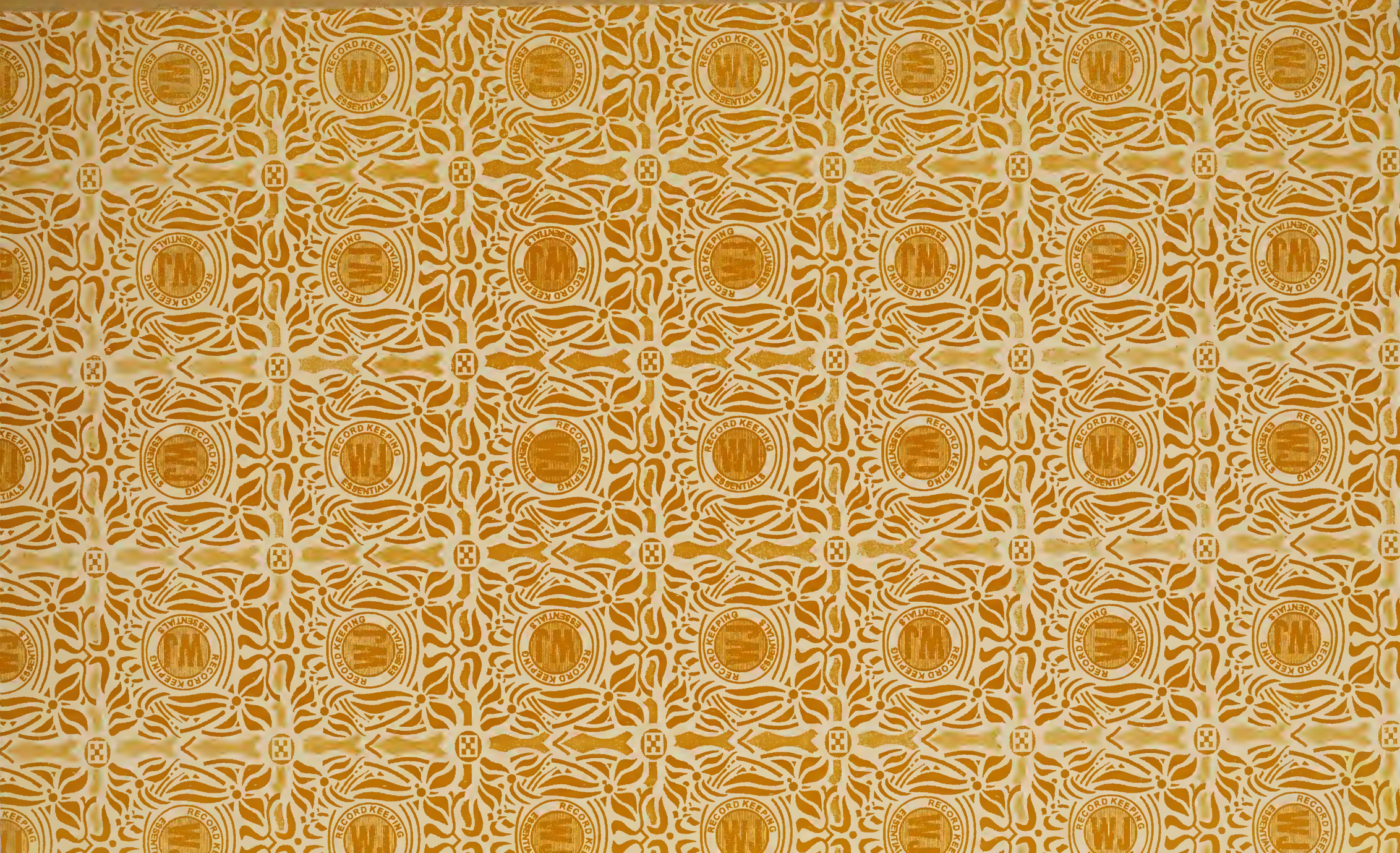

FRONT

TEACHERS' RETIREMENT BOARD MEETING
SEPTEMBER 8, 2006

CALL TO ORDER:

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Chairman, Scott Dubbs
Tim Ryan
Mona Bilden
Kari Peiffer
James Turcotte
Darrell Layman

STAFF PRESENT:

David L. Senn, Executive Director
Tammy Rau, Deputy Executive Director
Dave Ohler, Legal Counsel
Dan Gaughan, Accounting/Fiscal Manager
Johnelle Sedlock, Benefits Officer

OTHERS PRESENT:

M. Ruth Barrett, Eastgate School
Debbie Gibson, Radley Elementary
Kim Aarstad, East Helena Schools
Ron Whitmoyer, East Helena Schools
Merle Farrier, Retired Teacher
Tom Bilodeau, MEA-MFT
Charlotte Thomas, Montana Retired Educators' Association

CALL TO ORDER

Adopt Agenda – Chairman Scott Dubbs called for additions or changes to the Agenda for September 8, 2006. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda.

MOTION/VOTE Mr. James Turcotte moved that the agenda be approved. It was seconded by Mrs. Mona Bilden. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

Approval of May 19, 2006 Minutes – Chairman Dubbs called for changes to the May 19, 2006, Board meeting minutes.

MOTION/VOTE Mr. Darrell Layman moved that the May 19, 2006, minutes be adopted. It was seconded by Mrs. Kari Peiffer. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

Investment Report; Mr. Jim Turcotte referred the Board to the Quarterly Performance Report, page 13, showing positive performance for the year.

Mr. Ryan asked how comfortable are we with the custom benchmarks, and those that are customarily accepted in the industry? Mr. Turcotte explained the Board of Investments (BOI) was working with R.V Kuhns to realign the benchmarks. Mr. Turcotte added that the BOI has started to build a real estate portfolio and have committed $30 million.

PUBLIC COMMENT: Chairman Dubbs called for public comment on Board related items.

Ms. Charlotte Thomas made the comment that the retired teachers are having five district meetings and have invited all retirees to attend. They are happy that Dave will be able to attend four out of the five meetings.

Executive Director Report

Administrative Rules Mr. David Senn recommended Administration Rule 2.44.412 be amended to comply with recent changes in the federal regulations requiring that members reemployed after being called to active duty, be given up to three times the period of the member's uniformed service, not to exceed 5 years, to pay the employee contributions that would have been made had they not been absent before interest can be assessed. Because the dissimilar time periods create several programming challenges, Mr. Senn recommended all returning members be given up to 5 years to pay the employee contributions without interest.

MOTION/VOTE Mr. Ryan moved to change the administrative rule as recommended. It was seconded by Mr. Turcotte. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

Legislation – Teachers' Retirement Board

Housekeeping Proposal; Mr. Senn reviewed the changes included in the general housekeeping proposal. Mr. Senn also explained that changes to Internal Revenue Code Section 415 were pending, which, when finalized, could require additional amendments to the teachers' retirement act.

Family law Orders – The draft proposal would allow the Courts to carve out a piece of the member's benefit to be paid for the life of an alternate payee.

Membership Eligibility for Paraprofessionals – Clarify that all instructional paraprofessionals, as defined by the no Child Left Behind Act, are required to be members of the TRS.

County Superintendents - Require elected county superintendents, who are retired members of TRS, file a written irrevocable membership election with TRS.

Payment Of Interest On Dormant Accounts - Amendment requiring accounts transferred from dormant status to the annuity saving account include interest.

Health Insurance Premiums - Require employers to use the TRS electronic reporting system for withholding insurance premiums.

Designation of Beneficiaries and Payment of Benefits if no Designated Beneficiary is on File - Current law states that benefits will be paid to the guardian; proposed amendment will change guardian, to personal representative or executor.

Date of Termination for Purpose of Termination Pay Irrevocable Election - Clarify that the date of termination for purpose of this election is the last day the member is in a pay status.

Eligibility of Non-Vested Inactive Members To Purchase Service - Clarify that members who terminate employment and are vested maintain all their rights to purchase additional service.

Calculation of Annualized Compensation – Correct a typographical error in §19-20-805, MCA.

TRS/ORP Membership - Clarify that members cannot concurrently participate in both the Teachers' Retirement System and the Optional Retirement Plan.

Funding Proposal: Mr. Senn explained that the proposal to actuarial fund the TRS currently included: $100 million infusion of cash; closure of loopholes related to salary spiking, and return to work; increasing the State contribution to the TRS; and increasing the MUS ORP supplemental contribution rate.

Mr. Ryan stated that nothing in the proposal addresses the revenue short-fall needed to increase GABA that the legislature approved a number of years ago. He was concerned that to the TRS retirees it appears that we are going to, at some time, increase GABA to 3.0%. However, the fact of the matter is, without additional funding, we are not ever going to be able to increase GABA. Mr. Ryan recommended the funding proposal include a provision to strike this section of the law.

Alternative Plan Design - Mr. Senn explained the purpose of this proposal is to study, during the 2007-09 interim, alternate defined benefit or hybrid plan designs that will more adequately provide retirement benefits for future TRS members, provide for stable contribution rates, and not exacerbate the actuarial funding of the current TRS plan.

Other Proposals and Public Comment on Legislation - Mr. Senn briefly discussed the 25 bill drafts currently requested by Legislators and/or Interim Committees.

Identity Theft Legislation - Mr. Senn reported that the Economic Affairs Committee has requested legislation be drafted requiring all public entities to adopt policies protecting a person's identity.

MEA-MFT Proposed Legislation – Mr. Tom Bilodeau reported the MEA-MFT will have two proposals for the 2007 Session affecting retirement. One will increase the MUS ORP employer contribution rate 1.0%. The second will revise the TRS return to work limits, requiring at least a 6-month break in service and include fringe benefits in the 1/3 earnings limit.

Public Comment - Chairman Dubbs asked if there is anyone in the public who would like to take this opportunity to present other legislative proposals or to comment on any of the proposals discussed. There were none.

Executive Summary – Mr. Senn reported that on June 22, 2006, the State Administration and Veterans" Affairs committee met to review proposed legislation. The committee voted to approve for drafting all retirement proposals. The committee will meet again on November 28 & 29, 2006, and vote to either recommend or not recommend each retirement proposal to the 2007 Legislature.

The Joint Issues Committee met on May 18, 2006, following the TRS Asset/Liability Study presentation. MPERA will be providing support staff to the Committee for 2006-07. The committee discussed the unfunded liability issues and where the funding will come from. General obligation bonds and increasing employer contributions were addressed, but generally not supported by the committee. It was also agreed the committee should meet at least two times per year, but possibly more often this year to address the funding issues. The next meeting of the Joint Issues Committee will be September 28, 2006, after the actuarial valuations are completed.

Other Business

Next Meeting Date – The Board tentatively agreed to meet on November 17, 2006, February 9, 2007, May 2, 2007, September 7, 2007, and November 16, 2007.

Financial Statements, Budget & Travel Reports – Mrs. Tammy Rau presented the TRS financial statements and budget status. Mrs. Rau pointed out there are no new delinquency agencies to report this quarter.

Mr. Ryan noted that security lending is down 50% and asked about the use of securities lending. Mr. Turcotte offered to look into why securities lending had dropped off.

NCTR Trustee Conference Report – Ms. Peiffer reported the speakers were excellent. Interesting to her were the different actuary speakers. For her the best part was the collegial part in speaking with teachers, sponsors, and learning how they got involved, government appointed, elected.

Darrell Layman agreed with Ms. Peiffer. Found the presentation on communications to be most valuable. He liked the concept of training people to be on the boards. Colorado has their whole training system on the internet to train members of the Board.

Applications and Retirement Benefits - Regular, Survivorship, Adjustments and Corrections – Mr. Senn presented a list of members who have applied and retired since our last meeting. Scott asked if it would be possible to have this sorted in groups of school districts and state agencies and universities. Mr. Senn indicated it would be no problem to have this ready for our next meeting.

Disability Applications

Executive Session to Discuss Disability Applications & Annual Reviews – The Chair directed the meeting be closed to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceed the merits of public disclosure.

Disability Retirement Applications – The Chair reopened the meeting to the public.

MOTION/VOTE Ms. Bilden moved that the disability application for Majel D. Dominguez be approved. It was seconded by Mr. Ryan. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

Ms. Layman moved that the disability application for Patricia E. Roberts be approved. Seconded by Ms. Peiffer the motion carried unanimously.

Ms. Bilden moved that the disability application for Ann C. Russoff be approved. Seconded by Ms. Peiffer the motion carried unanimously.

Ms. Peifer moved that the disability application for Linda A. Fischer be approved. Seconded by Mr. Ryan the motion carried unanimously.

Annual Disability Reviews - The staff recommends that Kimberly Gaub be removed from disability review.

MOTION/VOTE Mr. Ryan moved that Kimberly Gaub be "excluded" from future disability reviews. It was seconded by Ms. Bilden. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

Individual Petitions Mr. Senn presented the petition of the East Helena paraprofessionals. For over 4 years, the District reported two Reading Tutors (retired TRS members) and their TRS eligible Paraprofessionals to the Public Employees' Retirement System (PERS). The District has advised that teacher aides are one and the same as paraprofessionals. In 1989 the Board adopted administrative rules requiring all teachers' aides who are assisting a certified teacher in the education and instruction of students in the regular curriculum of the institution to be active members of the TRS. Teachers' aides employed prior to September 1, 1989, who remained in the PERS, are not eligible to participate in the TRS while employed as a teacher's aide with the same employer. The district has indicated that only one person was in a teacher's aide position prior to 1989 and reported to PERS. Current law requires teachers' aides to be members of TRS.

Mr. Whitmore, Superintendent, East Helena Schools stated the situation in East Helena has a two fold effect. First in the past they had read the rule to exclude paraprofessional from TRS membership. They now read it to mean that these people are instructional of the general curriculum, provided that statement does not exclude Special Education, and agree paraprofessionals belong in the TRS.

The second group is the retired reading tutors. Mr. Whitmore informed the Board this came about because of the reading tutor's first grant. This grant was outside of the general fund and also outside of what they were paying for the paraprofessionals. First they decided to contract these people as independent contractors, but in looking at the rules and comparing them to paraprofessionals, they decided it would not be right for them not to participate in the retirement system. They compared them to jobs similar to theirs and what they decided was that they were outside TRS and were in PERS. For that reason, PERS was chosen as the correct retirement system. Now in looking at it, they believe they should be TRS.

Mr. Whitmore added that the school district did try to get some help thru TRS when researching this, they didn't go blindly. The reading tutors also contacted the TRS and likewise, no one caught it at that time that there was a problem with their classification. They did this in good faith, and in self defense they tried to do the proper thing.

Ruth Barrett, reading tutor, explained that when she was hired as a reading tutor, in East Helena, she was told that her income would be reported to PERS, which it was. She stated she called TRS and explained the situation and again was told there should not be a conflict and that her contributions were to be reported to PERS. She did not know there was a problem until June 2006. She asked the Board to be forgiving, and reiterated she acted in good faith.

Debbie Gibson, reading tutor, explained: she, too, was unaware of any conflict in reporting her contributions to the PERS. On each of her check stubs it showed her benefits went to PERS, and that is what she thought to be true for the past 4-1/2 years. She found out at the end of June that there was a conflict and that her position should have been reported to TRS. In this case she would not have qualified for early retirement. What seems to be a simple reporting error to TRS is in actuality a grave financial burden for her, if that is the Board's resolution. In good faith she asked that the Board consider this in their decision.

Chairman Dubbs responded that in relation to the first question regarding positions of employment, they would qualify as TRS positions.

Mr. Ryan added there doesn't seem to be much disagreement, with the teachers or the school district, that they should be reported to TRS.

Chairman Dubbs noted the Board needed to decide how they should correct this. He asked if there have been any comparable situations like this in past.

Mr. Senn responded that any time there has been a reporting error, TRS corrected those situations by requiring contributions be transferred to the correct retirement system. When it involved recovering benefits being overpaid, the law required the benefits be repaid to TRS, or

that future benefits be actuarially reduced.

Mr. Senn explained that in Ms. Gibson's case there are a couple of options. TRS can wait until Ms. Gibson retires, and then actuarially adjust future retirement benefits and recover the amount overpaid over her lifetime, or she can repay the amount due TRS in a lump sum or in monthly payments agreed to by the Board.

Mrs. Kari Peiffer asked what the School District's position was in helping these members recover losses.

Mr. Whitmore responded that the School District didn't feel they did this with an effort to defraud, it was an honest mistake. There was no malice, and if they can help these teachers in any way, they will. He pointed out that they've been working with them, but monetarily, he wasn't sure if they could help them."

MOTION/VOTE Mr. Ryan moved the Board authorize Mr. Senn to enter negotiations with both the school district and the individuals involved, to work within the parameters that we all agree that they are reportable to TRS. Motion was seconded by Mr. Turcotte. Motion was withdrawn.

MOTION/VOTE Mr. Ryan moved to authorize Mr. David Senn to negotiate and suggest alternatives for repayment without interest, so parties on both sides can work out an amiable solution within the restrictions, with the understanding that these individuals are TRS members and the outline resolution shall be agreeable to both parties. Mr. Senn will let the Board know the results of this resolution at the November Board meeting. It was seconded by Mrs. Bilden. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

10% Cap –Multiple Employers – Mr. Senn presented the petition of Ms. Diane Fladmo who is retiring effective September 1, 2006. Mr. Senn explained, during the three years preceding her retirement Ms. Fladmo was employed by both the Prairie View CO-OP and the University of Montana–Missoula. Mr. Senn presented a spreadsheet with her wages for the past three years showing the calculation of the 10% cap. If the 10% cap was applied, Ms. Fladmo would have excess earnings of $41,742.32. The question is which employer is liable for the $40,416.75 employer contributions. The required employee contribution would be $38,642.87 and the monthly benefit increase would be $519.46.
Administrative Rule 2.44.518(2)(d) allows for an exemption to the 10% cap if the excess earnings have resulted from a "change in employers". The questions before the Board are: Does working for more than one employer qualify as a "change in employers", and therefore, would Ms. Fladmo's excess earnings be exempt? If not, which employer would be liable for the employer contributions?

Mr. Senn shared another case that recently came to staff's attention where a member did work for two employers with one giving an increase greater than 10%.

MOTION/VOTE Ms. Peiffer moved that the Board waive the 10% cap in this case, and amend the administrative rule to clarify that if earnings in excess of the 10% cap are the result of the

cumulative increases granted by multiple employers that the cap be waived, but if a single employer grants an increase greater than 10% that the cap be applied. It was seconded by Mr. Ryan. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

Legal Counsel Report

Merle Farrier – Mr. Ohler reported that a hearing was held on July 27, 2006. Thomas G. Bowe, Hearings Examiner from the Attorney Generals Office, was appointed to conduct a hearing and issue Proposed Findings of Fact, Conclusions of Law and a Recommended Order with respect to: whether the Board is entitled to receive reimbursement for the benefits paid to Mr. Farrier and to which by law he was not entitled; the amount owed the Teacher's Retirement System and how it will be repaid or offset; and, Mr. Farrier's presentation of any equitable or legal defenses that would preclude the Board from seeking recovery.

On August 1, 2006, the Hearings Examiner submitted his Findings of Fact, Conclusions of Law, and Proposed Decision. Mr. Bowe concluded that: the Board is entitled to reimbursement; the amount owed the Teacher's Retirement System is $84,828.73, which consists of $53,146.72 in overpaid benefits and $31,682.01 in interest to July 1, 2006. The Hearings Examiner did not determine the method of repayment. The Hearings Examiner found that Mr. Farrier was given an opportunity to express a preference concerning the repayment method, but declined to do so; and, Mr. Farrier did not establish any equitable or legal defenses that would preclude the Board from seeking recovery. Staff recommends the Board adopt the proposed decision of the Hearing Officer.

Following the Hearings Examiner's Proposed Findings of Fact, Conclusions of Law and Recommended Order, Mr. Farrier presented to the Board a document dated August 29, 2006, entitled "Preliminary Information Pertinent to equitable or legal defenses which would preclude the Board from seeking recovery under the circumstances of this case."

Mr. Farrier reviewed for the Board the document dated August 29, 2006.

MOTION/VOTE Mr. Ryan made a motion that the Board authorize Mr. Senn to work together with Mr. Farrier to create a payment plan to the TRS, and if a mutually agreeable method of repayment was not reached, that repayment of Mr. Farrier's retirement benefits would be made by actuarially adjusting his retirement benefits as provided in §19-20-705(1), MCA. It was seconded by Mr. Turcotte. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

Mr. Senn asked if Mr. Farrier would send him a written proposal for repayment of the amount owed so they have a starting point for negotiations.

Case Update - Mr. Senn informed the Board that we continued to receive monthly payments from Roger Ogren against what he owes TRS.

Election of Officers

MOTION/VOTE Mr. Ryan moved for the continuation of the current Officers. It was seconded by Mr. Turcotte. Chairman Dubbs asked for further discussion or public comment, finding none, the motion carried unanimously.

X. Adjournment

There being no further business, the meeting adjourned at 2:42pm.

Chairperson_____

Executive Director_____

TEACHERS' RETIREMENT BOARD MEETING

November 17, 2006

CALL TO ORDER

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement System Conference Room, 1500 East Sixth Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Chairman, Scott Dubbs
Tim Ryan
Kari Peiffer
James Turcotte
Darrell Layman

STAFF PRESENT:

David L. Senn, Executive Director
Tammy Rau, Deputy Executive Director
Dave Ohler, Legal Counsel
Dan Gaughan, Accounting/Fiscal Manager
Johnelle Sedlock, Benefits Officer
Karla Scharf, Retired Payroll Manager
Bill Hallinan

OTHERS PRESENT:

Scott Miller, MPERA
Jon Moe, Legal Fiscal Div.
Janet Kelly, Dept. of Administration
Tom Bilodeau, MEA-MFT
Charlotte Thomas, Retired Teachers' Association
Kathy Braun, OPI
Bob Vogel, MSBA
Mark Olleman, Milliman

CALL TO ORDER

Adopt Agenda - Chairman Scott Dubbs called for additions or changes to the Agenda for November 17, 2006. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda. Mr. James Turcotte moved that the agenda be approved. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

Approval of September 8, 2006 Minutes - Chairman Dubbs called for changes to the September 8, 2006, Board meeting minutes.

Mrs. Peiffer pointed out on page 7, paragraph 2, "Ms. Rau asked," should be changed to "Mrs. Kari Peiffer asked."

Chairman Dubbs pointed out that on page 7, paragraph 6, the heading should be changed from "10% Cap- Multiply Employers" to read "10% Cap- Multiple Employers'.

Mrs. Tammy Rau asked that the annual disability review for "Kimberly Goob" be corrected to read "Kimberly Gaub."

Mr. Turcotte pointed out that on pages 6-7, where there are discussions regarding Individual Petitions, he'd like to see the same tense regarding quotes in 'first person' used throughout the paragraph.

MOTION/VOTE: Mr. Tim Ryan moved to accept the September 8, 2006 Minutes as corrected. Seconded by Mrs. Peiffer, the motion carried unanimously.

PUBLIC COMMENT

Chairman Dubbs called for public comment on Board related items. Seeing none, Mr. Dubbs introduced Mr. Mark C. Olleman, Consulting Actuary, Milliman USA, to discuss the 2006 Actuarial Valuation.

ACTUARIAL VALUATION – MARK OLLEMAN

Mr. Olleman commented, as of July 1, 2006, the system had unfunded actuarial accrued liabilities of $863.1 million, compared to $903.3 million the year before. The current employer contribution rate of 7.47% plus the employee contribution rate of 7.15% are not adequate to amortize the unfunded liability over 30 years. Therefore, the System is not actuarially sound.

Mr. Ryan asked if the July 1, 2006 figure includes the $100 million infusion from the December 2005 Special Session.

Mr. Olleman answered that it does. In order to pay off the unfunded liability over a 30 year period, which is what's recommended by the Governmental Accounting Standards Board, a 3.38% employer contribution rate increase will be needed, which would bring the total contribution rate of 14.73% up to 18.11%. The 3.38% increase starting July 1, 2007, is projected to amortize the unfunded liability over the 30 years beginning July 1, 2006.

Mr. Olleman explained that in July 1, 2005, the unfunded actuarial accrued liability was $903.3 million. During the past year, we expected the unfunded liabilities to increase by $44.9 million, because current contribution rates do not pay either the principal or all of the interest that accrued during the year. In addition, we adopted a new mortality assumption, which increased the unfunded liability $24 million and a small net experience gain of $5.3 million, which brought the expected unfunded liability, without the $100 million contribution, to $966.9 million. Assuming the System earned 7.75% on the $100 million for the whole six months after the contribution was made, the July 1, 2006 unfunded actuarial accrued liability would be $863.1 million.

When discussing assets, Mr. Olleman pointed out that prior valuations have smoothed market gains and losses over five years. The purpose of smoothing is to remove contribution volatility by offsetting gains with losses. Mr. Olleman made a point that the System had $136 million of unrecognized gains in 2000. That helped when the market declined and returns went negative,

but we would have had to have very large unrecognized gains to have covered the 2001 and 2002 losses of $650 million. The July 1, 2006 valuation uses market assets.

Mr. Olleman explained, the unfunded actuarial accrued liability is financed by contributions as a percentage of both TRS members' and the Optional Retirement Program (ORP) members' compensation. The Montana University System (MUS) makes a supplemental contribution equal to 4.04% of ORP member's compensation. The July 1, 2006 valuation projects that a contribution rate of 4.72% is needed, starting July 1, 2007, to pay off the MUS liability by July 1, 2033.

Mr. Olleman presented to the Board a variety of contribution schedules comparing TRS contribution rate increases with the current 4.04% Supplemental Contribution rate vs. one with a 4.72% Supplemental Contribution rate. He also discussed the ideas of graded increases, including contribution rate increase with $100M infusion and a 2.0% increase on July 1, 2007, or a one-time cash infusion to establish a 30-year amortization.

In conclusion, Mr. Olleman informed the Board that the asset returns of the 2 years ending June 30, 2001 and 2002 severely hurt the funding of most retirement systems including TRS. The $100 million infusion in January of 2006 made a substantial impact, but the System is still not actuarially sound. To become actuarially sound, the System needs either, a $395.5 million cash infusion, contribution rate increases of 3.38%, or a combination of cash infusions and contribution rate increases.

Mr. Olleman concluded that the Board's legislative proposal is actuarially sound. This proposal includes, a July 1, 2007 $100M infusion, and two graded employer contribution rate increases; one for July 1, 2007 at 2.00% and another July 1, 2009 at 0.38%. Lastly, the MUS Supplemental Contribution rate will increase as of July 1, 2007 from 4.04% to 4.72%, an increase of 0.68%.

MOTION/VOTE: Mr. Turcotte made a motion to accept the Actuarial Valuation as presented. Seconded by Mr. Layman, after seeing no further discussion or public comment, the motion carried unanimously.

INTRODUCTIONS

Mr. Senn introduced to the Board, Ms. Janet Kelly, Director, Department of Administration, and thanked her for participating in today's meeting. She graciously stated she had been meaning to come to one of the TRS Board Meetings and found the agenda extremely interesting. Chairman Dubbs reflected the Board's sentiment that they appreciate having the Director attend and having an opportunity to interact with her.

Chairman Dubbs also extended the Board's appreciation to all the guests for their time, efforts, energies, and the dedication it took to attend.

2007 LEGISLATIVE PROPOSALS

TRS Actuarial Funding Proposal - Mr. Senn presented the Actuarial Funding proposal as it appears in the Governor's budget. The draft includes the $100 million cash infusion to the

Teachers' Retirement System, and a 2% increase in employer contribution rates effective July 1, 2007, with a second increase of 0.38% effective July 1, 2009. The increased employer contributions will be paid by the State General Fund for School Districts and Community Colleges, thus, resulting in no property tax increase. There is also an appropriation in the bill to pay the additional employer cost of State Agencies and University System.

The University ORP supplemental contribution rate will also increase from 4.04% to 4.72%, an increase of 0.68%, effective July 1, 2007.

Mr. Senn made note that in addition to funding increases, there are also amendments to close loopholes that enable members to retire and continue working essentially full-time. The amendments will clarify the definitions of full-time and part-time service, and of the maximum amount of compensation retirees may earn. Mr. Senn also pointed out that this bill will eliminate the statutory minimum interest rate and the requirement that the Board increase GABA to 3.0% as funds become available.

In addition, the proposal clarifies the 'Legislative Statement of Intent', stating that it is the intent of the Legislature to provide equitable retirement benefits to members of the teachers' retirement system based on each member's normal service and salary, and to limit the effect on the retirement system of isolated salary increases received by a member, such as, but not limited to, end-of-career promotions, or one-time salary enhancements during the member's last years of employment; and to limit the total compensation, including fringe benefits, that a retired member may earn after retirement in a position that would normally be included in the teachers' retirement system to the amount determined under 19-20-731(1)(a).

Charlotte Thomas, Retired Teachers' Association, questioned if they rescind the GABA, how would that affect teachers?

Mr. Senn responded by explaining the proposal would not rescind GABA, but would repeal only that section of the law that says the Board may increase GABA from 1.5% to 3.0%. If this section is removed, then we will have to go to the Legislature and request additional funding before GABA could be increased.

Mr. Layman made note that he had difficulties accepting this amendment since he remembers the struggle that the Board went through to get GABA. He pointed out he does understand the flaw in the funding, but he wondered if the Board could attack it in a different way by requesting funding to increase GABA.

Mr. Senn responded that it would be difficult to ask for additional funding to increase GABA in the same bill in which we are asking for funding to make the system actuarially sound.

Mr. Senn pointed out to the Board that the changes in definitions and changes to close any loopholes would not affect any contracts that are currently executed, and any contracts executed before the effective date of the change, or July 1, 2007. Mr. Senn recommended the Board amend the Bill to make the definition changes effective on passage and approval. All other changes will be effective on July 1, 2007.

MOTION/VOTE: Mr. Layman moved to amend the funding proposal to make the changes to the definitions effective on passage and approval. Seconded by Mrs. Peiffer.

Chairman Dubbs asked for questions or comments from the Board or the public regarding the motion by Mr. Layman.

Mr. Bilodeau stated his organization would support advancing the effective date to immediate upon passage.

Bob Vogel, MTSBA, urged the Board to stay with the effective date of July 1, 2007, instead of effective on passage and approval. This would give new employees and existing retirees the opportunity to get themselves through one more contract year.

Mr. Vogel expressed concern that fringe benefits would be included in the maximum a retiree may earn, but excluded from the definition of earned compensation prior to retirement. Mr. Vogel suggested the Board raise the 1/3 earnings limit up to ½ of the member's average final compensation. He suggested a stair-stepping gradually up to the ½.

Mr. Ryan stated he would be very concerned with raising the 1/3 to ½, which could have a significant cost to the system.

Mr. Turcotte shared with the Board that he has a great reluctance to look at any changes to retirement policy and to use the System as an incentive tool. He expressed reluctance to enhance retirement benefits when we have recruiting problems.

Mrs. Peiffer informed the Board she agrees with Mr. Turcotte's comments. She stated there is a problem here, but the retirement system is not the place to solve that problem.

Mr. Layman added his concerns that TRS is being used as a vehicle to solve some of these problems. Employment and retirement are two different issues. It should be a legislative process working with school boards and unions to put in-place legislation that funds teacher's salaries.

Chairman Dubbs asked the Board to vote on the motion to make the changes to the definitions effective on passage and approval; the motion carried unanimously.

MOTION/VOTE: Mr. Ryan made a motion to accept funding legislation as amended, seconded by Mr. Turcotte. Chairman Dubbs asked if there was any further discussion or public comment. Finding none, the motion carried unanimously.

TRS Housekeeping Proposal - Mr. Senn summarized the Housekeeping Proposal explaining it would clarify that paraprofessionals must be members of the Teachers' Retirement System; that elected county superintendents would be required to file a membership election form under certain circumstances; clarify that members cannot concurrently participate in both the Teachers' Retirement System and the Optional Retirement Plan; revise the requirements of family law orders to provide for the payment of benefits for the life of the alternate payee; clarify that only active or inactive vested members may purchase service credit; require accounts reinstated from dormant status include interest; provide for the payment of interest on correction of errors; clarify the date of termination for the purpose of termination pay; provide for the correct use of accounting terms; clarify lump sum amounts due an estate may be paid to the personal representative or executor; and would require employers use the system's online reporting system for authorizing voluntary insurance premium deductions.

Chairman Dubbs opened the floor to the Public for questions or comments.

MOTION/VOTE: Mrs. Peiffer moved to accept the housekeeping legislation as proposed, seconded by Mr. Ryan. Chairman Dubbs asked if there was any further discussion. Finding none, the motion carried unanimously.

Alternative Plan Design - The Board's proposal to establish an interim study committee to look at and recommend a new plan has not yet been approved by the Governor's Office. Mr. Senn recommended the Board work with the legislature to find a sponsor to introduce this proposal.

MOTION/VOTE: Mr. Turcotte moved Mr. Senn respond by encouraging the legislature to establish an interim study committee to look at and recommend a new plan design. Seconded by Mr. Layman, following further discussion and public comment, the motion carried unanimously.

Other Legislative Proposals - Mr. Senn presented Bill LC014. This bill would combine the Teachers' and the PERS Boards; based on the Board's past position on similar legislation, Mr. Senn assumed the Board will oppose this bill.

Chairman Dubbs agreed that the Board would not be in support of LC14.

Mr. Senn summarized Bill LC0013 to mandate that new members participate in the PERS defined contribution plan.

LC0016 would substitute statutory regulation for professional money management. Mr. Senn advised he would be representing the Board as opponents to this legislature.

LC0018 requires 30-year actuarial funding for retirement benefit enhancements. Mr. Senn suggested the Board recommend to the Legislature that they adopt the Board's funding and benefit policy.
LC0021 requires annual detailed actuarial valuations for retirement systems. Mr. Senn pointed out that we are already doing annual actuarial valuations.

LC0842 would require annual actuarial valuation reports for retirement systems. Mr. Senn pointed out that we are already doing annual actuarial valuations.

LC0843 talks about laws requiring defining investment risk for retirement plans. Mr. Senn informed the Board he will oppose this legislation on behalf of the Board.
Mr. Senn continued to review the list of pending bill draft requests, giving the Board a general status reports on the bills affecting TRS.

Chairman Dubbs opened discussion on other Legislative Proposals.

Mr. Tom Bilodeau told the Board that MEA-MFT will only bringing one retirement related bill to the Legislature. It would increase the university employer's contribution to ORP participants from its current 4.956% salary to 5.956% of salary.

Mr. Bilodeau commented on the three items the Board just discussed regarding TRS house keeping bill and funding bill that MEA-MFT would be in strong support of those bills. The study proposal, he felt, it was something that needs to be proceeded with and MEA-MFT would support it anyway they can. He also stated that MEA-MFT would clearly like to be on record as opposed to any attempt to combine TRS and PERS Boards. Mr. Bilodeau also made note that MEA-MFT would oppose any attempt to establish any form of tiered benefit structure for members in the TRS system that includes any opposition to a voluntary or mandatory defined contribution option for new hires. This opposition would also include any changes to benefit structures that would only affect new hires. He noted that MEA-MFT would prefer any changes that do come about resulting in a full-fledged, well considered, well thought out and discussed study process.

Chairman Dubbs asked for any other public comments or questions, seeing none Chairman Dubbs asked for the Executive Director's Report.

EXECUTIVE DIRECTOR'S REPORT

2007 GABA Increase - Following each actuarial valuation the Board must determine if sufficient funding is available to increase GABA from 1.5% to a maximum of 3.0%. Mr. Senn informed the Board there is not sufficient funds and he recommends the Board not increase GABA.

MOTION/VOTE: Mr. Layman moved to leave GABA at 1.5%, seconded by Mr. Ryan. Chairman Dubbs asked for any discussion or public comment, finding none, the motion carried unanimously.

National Coalition on Health Care - Mr. Senn informed the TRS Board that the National Coalition on Health Care works for comprehensive reforms for the heath care system. It has many retirement systems in its membership, such as the National Association of State Retirement Administrators and the National Counsel on Teachers Retirement. The Board is being asked to join at this time.

Fees to join this organization for a fund our size would be $5,000.00. Mr. Senn made note that if we decide to join this organization it would require a vote to also amend the current budget.

MOTION/VOTE: Mr. Ryan moved that the Board decline at this time. He added he felt it was premature and should require more discussion and information before making a decision. Seconded by Mr. Turcotte, the motion carried unanimously.

Goals and Objectives - Mr. Senn presented the Board's goals and objectives for the 2007 biennium and reviewed the status of each objective. After some discussions by the Board, Mr. Ryan supported deleting any reference to GABA in the Board's goals since there is no funding for it and it gives our members false hope. Mr. Senn made note that the goals would be revised for the 2009 biennium.

Executive Summary – Mr. Senn reported the Legislative Auditor's Office was in the final stage of completing the compliance and financial audit of the Teachers' Retirement System for fiscal year 2006. An unqualified opinion was expected with only one recommendation that the Board

seek legislation to ensure that the System is actuarially funded. The Exit Conference was scheduled for Tuesday, November 21, 2006.

Mr. Turcotte mentioned he would be available if the Board wanted a Board member to attend the Exit Conference. The Board agreed that would be a good idea if Mr. Turcotte would be present at that meeting.

East Helena Paraprofessionals – Mr. Senn reported he met with the paraprofessionals and that they accepted the Board's offer to waive the interest on amounts due TRS to transfer their PERS accounts to TRS and collect the difference in the contribution rates due TRS. The amounts each member will have to pay ranges form $7.98 to $534.38, and totals $2,063.01. The employer total due TRS is $5,384.94. The Union is negotiating with the District to pay the employee's cost.

Mr. Senn stated that next week he will meet with the superintendent and the two retired teachers that were working as paraprofessionals. One of them has a small account at PERS that will almost cover the amount she was overpaid in retirement benefits, so it will cost her about $400 out of pocket to repay the benefits she should not have received.

The other retiree received about $11,000.00 in benefits that she was not entitled to, and we will be discussing her repayment options. One of her options is to not repay the amount owed and accept an actuarial reduction in future benefits. If she waited to age 60 that reduction would be about $125.00 a month. Another option is to purchase additional service, take the actuarial deduction, since the service may be less expensive than paying back the benefits. Mr. Senn informed the Board he has also offered the option to repay the money over a period of time with no interest.

Working Retirees – Mr. Senn reported we sent letters to approximately 40 schools questioning retirees they had reported to the Office of Public Instruction (OPI) as working full-time on their Annual Data Collection (ADC) report, and reported to TRS as working only part-time. The explanations ranged from 'their ADC report was incorrect', to 'accreditation required a full-time employee, so that was what they reported.' However, all responses seem to indicate that the person in question was working only part-time, at least by the current TRS definition.

OTHER BUSINESS

2007 meeting Dates - MOTION/VOTE: A motion was made by Mr. Layman to adopt February 9, May 11, September 7, and November 16 as the dates for the TRS Board to meet in 2007. Seconded by Mr. Ryan, the motion carried unanimously.

Out of State Travel – Out of state travel request were presented to the Board for: David Senn to attend the NCTR Legislative Committee February 2007 in Washington, DC, Bill Hallinan to attend the Public Retirement Information System Manager's Prison Conference in San Antonio, Texas; and for Tammy Rau to attend the Government Finance Office annual conference.

MOTION/VOTE: Mr. Ryan moved to approve the out-of-state travel requests. Seconded by Mrs. Peiffer, the motion carried unanimously.

Personnel Committee Report – Mrs. Rau informed the Board that she and Mr. Senn met with the Personnel Committee on Thursday, November 16, 2007, to discuss current year performance appraisals, which ended on the 31st of October. Mrs. Rau reviewed recommendations made by supervisors for compensation adjustments for staff members who have met or exceeded the performance expectations during that appraisal period, and/or have demonstrated competency growth and sustained performance over an extended period of time. Mrs. Rau relayed to the Board that pursuant to the current compensation guidelines, any adjustments that are approved by the Executive Director, will be effective with the first full pay period in January.

Mr. Ryan asked if our current budget has enough elasticity to handle these recommendations.

Mrs. Rau informed the Board that there are enough funds in our budget to absorb the costs of these performance adjustments.

Mr. Dubbs commented that Mrs. Bilden, Jim Kerins, Personnel Consultant, meet yesterday. Mr. Kerins was very complimentary of the staff here at TRS and the way they are working toward implementing the compensation program. Mr. Dubbs added that he felt it reflected the leadership and administration. Mr. Dubbs stated that Mona Bilden and he wanted to publicly thank Tammy & Dave for the work that they have done and how far we have come with this performance compensation process. Mr. Dubbs added that he has been on the committee for over 3 years, and it takes a long time to have an understanding of how the process works, so they are to be commended.

MOTION/VOTE Mr. Ryan moved to accept the report of the Personnel Committee. Seconded by Mrs. Peiffer the motion carried unanimously.

Information Systems update – Mr. Bill Hallinan presented to the Board updates on computer security and disaster issues that affect TRS. He informed the Board there are a couple of issues that affect the fiduciary responsibility of the Board in terms of computer security in disaster recovery. He discussed how computer security related to taking care of confidentiality of our members and to make sure people do not steal member information.

NCTR Annual Conference Report – Mr. Turcotte and Mr. Senn attended this year's NCTR annual conference in Austin, Texas, in October. They discussed the highlights and events of interest to the Board.

Financial Statements, Budget, Delinquent Agency and Travel Reports - Mr. Dan Gaughan presented the financial statements to the Board. He pointed out on the balance sheet that STIP is higher than last year at this time which is due to the $100 million cash infusion in January. Mr. Gaughan noted the new investment titled MTRP is a real estate investment which started the first of May.

Mr. Ryan asked what expenses are put in 'other' expenses.

Mr. Gaughan informed the Board that 'other' expenses include items such as education activity expenses and freight. Mr. Gaughan explained some charges to this account are indirect cost activity that the State passes on to all agencies and are taken care of at the beginning of the year.

In reporting delinquent agencies, Mr. Gaughan told the Board that currently we have no delinquent accounts.

Finding no further questions regarding Mr. Gaughan's reports, Chairman Dubbs asked Mr. Senn for the Annual per diem Report.

Annual Per Diem Election Reports – Mr. Senn stated that Board members and public employees who receive both the $50 a day per diem as a Board member and their regular salary, are double-dipping and we need to file a Multiple Public Employment Disclosure Form by December 15, 2006.

LEGAL COUNSEL REPORT

Case Updates - Mr. Dave Ohler gave a brief update on the Merle Farrier case, noting that the Chairman signed a Final Agency Decision on October 27, 2006.

BOARD OF INVESTMENT

Mr. Carroll South reviewed the investment performance of the Teachers' Retirement System for fiscal year 2006. He showed the Board the different balances of 2005-2006, one showing book value and the other showing the fair market value, down more than $15 million than last year, due to a poor year of bonds. Mr. South explained bond prices went down further than the interest earned on bonds. Mr. South stated domestic equities are where most of our income came from this year. Mr. South shared the pros and cons of new money or private equity, discussed capital calls and the STIP values we need to met our commitments regarding the real estate pool.

Mr. South informed the Board that we are now hiring more active managers than passive since our performance did not beat the index because almost 2/3rds of our investments were passively invested. Four new managers were hired in June, to beat the index with a lower risk factor, calling it a synthetic style managing. Mr. South informed the Board that what is next is interviewing large capital managers.

RETIREMENT REPORT

Service Retirements and Survivor Benefits - Chairman Dubbs asked that the service retirements and survivor benefits list be separated by Agency number and presented at our next meeting. Mr. Senn indicated it would.

CLOSED MEETING

Chairman Dubbs directed the meeting closed at 2:14 p.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

OPEN MEETING

Application for Disability Retirement Benefits – The meeting was reopened to the public at 3:10 p.m.

The staff recommends that Dorothy M. Guardipee be approved for disability retirement benefits.

MOTION/VOTE: Mr. Ryan moved to approve the disability application of Dorothy M. Guardipee. Seconded by Mr. Layman, the motion carried unanimously.

CLOSED MEETING Chairman Dubbs closed the meeting at 3:20 p.m. The Personnel Committee presented to the Board Dave Senn's performance evaluation.

OPEN MEETING Chairman Dubbs reopened the meeting to the public at 3:40 p.m.

MOTION/VOTE: Mr. Layman moved to accept Mr. Senn's performance evaluation from the Personnel Committee. Seconded by Mrs. Peiffer, the motion carried unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:45 p.m.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING

February 9, 2007

CALL TO ORDER

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement System Conference Room, 1500 East Sixth Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Chairman, Scott Dubbs
Mona Bilden
Darrell Layman
Kari Peiffer
Tim Ryan
James Turcotte

STAFF PRESENT:

David L. Senn, Executive Director
Dave Ohler, Legal Counsel
Janet Cooper, Benefits Officer
Dan Gaughan, Accounting/Fiscal Manager
Bill Hallinan, Information Technology Manager
Karla Scharf, Retired Payroll Manager

OTHERS PRESENT:

Charlotte Thomas, Retired Teachers' Association
Darrell Rud, School Administrators of Montana
Ron Fuller
Mark Vucurovich, Attorney for Ron Fuller

CALL TO ORDER

ADOPT AGENDA - Chairman Scott Dubbs called the meeting to order at 8:42 am. He asked for additions or changes to the Agenda for February 9, 2007. Mr. Darrell Layman moved that the agenda be approved. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

APPROVAL OF NOVEMBER 17, 2006 MINUTES - Chairman Dubbs called for any changes to the November 17, 2006, Board meeting minutes.

Mr. James Turcotte asked that on the bottom of page 3, last paragraph, that the word 'sediment' be changed to 'sentiment'. Mrs. Mona Bilden would like to change on page 8, paragraph 5, 2nd sentence, the word 'we're' to 'were'.

MOTION/VOTE: Mr. Darrell Layman moved to accept the November 17, 2006, Minutes as corrected. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

PUBLIC COMMENT

Chairman Dubbs called for public comment on Board related items. Mr. Darrell Rud, Executive Director of Schools Administrators of Montana, stepped forward to make public comment at 8:42 am.

Mr. Rud stated he has concerns with House Bill 63 and does not believe the focus on budget woes are caused by superintendent's looking for loopholes in the system. He also presented that there must be consistencies between income that is used for pre-retirement calculation of average final compensation and the limitation on post-retirement earnings. Mr. Rud offered that this is a critical issue for small schools, and stated that he believes it's also a small part of the Teachers' Retirement System (TRS) funding problem. Mr. Rud added he believes in the system, that it needs to be fixed; and this fix is headed in the wrong direction.

Chairman Dubbs called for any other public comment on Board related items and finding none, asked Mr. Senn for the Executive Director's Report.

Executive Director's Report – David Senn

HB 63 - Mr. Senn recommended that the Board consider amending HB 63 to exclude the value of housing provided by an employer. There are some smaller districts that provide housing to teachers and administrators as part of their contract. In support of closing the loopholes, Mr. Senn reported that a recent comparison of the TRS retired database with employers' Annual Data Collection (ADC) report submitted to Office of Public Instruction found a few "working retirees" who were reported as being employed full-time on the employer's ADC report, while reported as "part-time" for TRS purposes. Mr. Senn gave several examples of the types of errors that were discovered.

Mr. Scott Dubbs reported that he testified on HB 63. Mr. Dubbs added that there is a definite problem where smaller schools are trying to hire superintendents to run their school on 1/3rd salary, but that they should not use the retirement system to solve their employment problems. He added he is not aware of any district that has a part-time superintendent that can run a school efficiently.

Mr. Turcotte commented that he, too, felt schools need a full-time superintendent to run a school district. He wondered how a retired person could run a district with 1/3rd salary.

Mr. Rud added he felt this was a desperate measure to get 'superintendents' in small school districts and there are only a few district using retired superintendents. He felt the hearing focused too much on the issue of superintendents earning more than a 1/3rd salary.

Mr. Tim Ryan mentioned he is sympathetic to the problem of retaining and recruiting qualified superintendents. He expressed there are solutions out there, but there are also costs for those solutions, and they should not be passed on to the retirement system. The Board cannot allow the increase in unfunded liabilities.

Mrs. Kari Peiffer asked if we knew what the projected costs would be if we allowed retirees to return to full-time employment while continuing to receive retirement benefits. Mr. Dubbs responded approximately 2.0% - 3.0% of salary or around $20 million a year.

Mr. Rud added that it is the smaller schools that are in trouble. Who will go and teach if the part-time superintendent can not do the job?

Mr. Senn addressed several other bills affecting the TRS and provided the Board with a list of the bills he is following on behalf of the Board this session.

EXECUTIVE SUMMARY

Mr. Senn reported that Rocky Boy Schools had an administrator who retired after having signed her Termination Pay - Irrevocable Election Form, and then the District agreed not to report the termination pay to the TRS. We advised the district that the election form is a legal binding contract and that they had until February 16, 2007, to remit the contributions due TRS.

Mr. Senn presented a report on House Bill 178, from the 2003 Session, which authorized school districts to employ retired teachers, specialists, or administrators who had been receiving a retirement allowance for at least 12 months. Individuals reemployed in a full-time teaching, specialist, or administrator position under this act were allowed to continue to receive teacher retirement benefits regardless of the amount they earned. The report showed that only three teachers returned to work under this law, and that while all earned more than one-third of their average final compensation, none of the teachers earned a full-time salary. The bill sunset June 30, 2006.

INDIVIDUAL PETITION – RON FULLER

Mr. Mark Vucurovich, Attorney for Ron Fuller, reviewed the status of Mr. Fuller's position as it relates to the benefits he wrongly received from the Montana Teachers' Retirement System after his earnings as a working retiree exceeded the maximum he was eligible to earn.

Mr. Fuller presented to the Board the various medical issues he has faced since 1965 and how they led to his part-time teaching in 1997. Mr. Fuller reiterated that the school was well aware he was on retirement, and they guaranteed they would protect his retirement.

Mr. Fuller stated that at first the school suggested they would report his hours to game warden retirement, and then they decided Public Employees' Retirement System (PERS). Mr. Fuller indicated he went along with their decision since he was considered temporary and was not hired on a regular basis. Mr. Fuller further explained that all his hire letters indicated he would be reevaluated later on with no contract. They told him they did not have a position for a principle and he was placed in other positions. Mr. Fuller told the Board he did call TRS and talked about making more money and asked if this would create problems with his retirement.

Mr. Fuller told the Board that in 2006 the school offered him a ¾ time position and is now contributing to TRS, before that he wasn't a principal as such. He was not aware of what the

school was doing in the background, but he made it clear to the school that he would not take a position that would affect his retirement.

Mr. Fuller further expressed that he does not feel he is responsible for what happened. He had not worked for the State before, and he relied on those who knew how the process was handled. He informed the Board that he has continued working, even though he is 72 yrs old, has worked 40 years with kids, and would like to retire, but he cannot survive on $800 a month.

Chairman Dubbs asked Attorney Mark Vucurovich if he had any further comments.

Attorney Vucurovich stated that Mr. Fuller was an innocent victim. Mr. Vucurovich reminded the Board that the school was always trying to decide where to put Mr. Fuller's retirement and for all intense purposes, the school should know that teacher's funding goes to TRS. Mr. Vucurovich stated that whatever the Board decides, they will abide. However, he wanted it known that he feels the school is the one responsible for this situation. The Department's admission that Mr. Fuller was not classified in a principal position, yet they put Mr. Fuller in that position, indicates negligence on their part.

Chairman Dubbs asked Mr. Senn about documents on file, and noted that in listening to Mr. Fuller it appeared that the principal part of this problem started around 2004-2006.

Mr. Senn presented backup data for Mr. Fuller's positions over the years. Mr. Senn pointed out that the real issue is that Mr. Fuller was in a TRS position and that he exceeded the amount he was eligible to earn as a working retiree.

Mr. Fuller responded that the school had asked him to help. He was not sure of the hours or the dollar amounts he was restricted to. It all started out as part-time and he did not know how long that it was going to last. Mr. Fuller added that he was also working as a substitute teacher for a social studies teaching position at the time. Time just kept going and the school continually told him that they would protect this retirement and they knew he was receiving benefits. He told the school he would not do this if it affected his retirement.

Mr. Ryan asked at what time did Mr. Fuller attempt to contact TRS?

Mr. Fuller answered; he contacted TRS in 2004 and was told that this could not happen. In 2005 he got a letter from Karla Scarf, and she referred to the laws affecting his retirement. He called Mrs. Scarf back and spoke with Mr. Senn. Mr. Fuller added he called TRS many times and did not feel he got any satisfaction from those conversations.

Mr. Ryan asked Mr. Fuller if he was aware of the 1/3rd law.

Mr. Fuller stated he was aware of the 1/3rd law, but pointed out that he was sick at first and needed the money. Later he felt the school knew what they were doing, he trusted them, and Mr. Fuller went along with the school handling this situation. Mr. Fuller told the Board it frankly boiled down to that he needed the money then and he still does, due to medical costs.

Mr. Senn asked Mr. Fuller if he shared the letters, he received from Karla Scarf, with the Department of Corrections.

Mr. Fuller answered he did share all the letters from TRS with the Department of Corrections and actually she was sending them a carbon copy, also.

Mr. Senn asked Mr. Fuller, that when he was hired, if he felt the school was aware of the situation?

Mr. Fuller answered he felt the school was aware of the situation. He reiterated that he did have concerns himself, but he liked his work and needed to work to keep himself going. At the same time, he left it in the school's hands, because they should have known how to handle things. He trusted them.

Mr. Dubbs asked if there was any further documentation that would help the Board. Mr. Fuller indicated he provided all his documentation.

Mr. Ryan stated that he concurs with council's recommendations, that the law is pretty clear as to the Board's responsibility and the Board has a fiduciary responsibility to the TRS in this case. Mr. Ryan stated it is quite clear to him that the argument is not with the TRS.

MOTION: Mr. Ryan moved to deny Mr. Fuller's request that the Board waive repayment of the benefits he received in error, plus interest.

Chairman Dubbs asked Mr. Senn if there were any other options, such as not including interest.

Mr. Ryan voiced his concern that every time we forgive interest we set precedence, and the interest here is significant. Mr. Ryan added that he believes that after council has entered into discussions with the Department of Corrections, that we could keep the door open, but he would not encourage interest reduction to be part of this motion.

MOTION: Mrs. Kari Peiffer seconded Mr. Ryan's motion.

FURTHER DISCUSSION: Mrs. Peiffer added that she agrees with Mr. Ryan. Mr. Fuller was wronged but not by the TRS.

MOTION/VOTE: The motion carried; Mr. Turcotte abstained.

INDIVIDUAL PETITION –EDWARD FOLEY

Mr. Edward Foley asked that his petition be postponed until the May 18th Board meeting.

LEGAL COUNCIL REPORT - Mr. Dave Ohler

Mr. Ohler informed the Board that Mr. Merle Farrier filed a motion for judgment in District Court. On January 2, 2007, we responded with a petition asking the Court to enter judgment in our favor on our counter-claim that we filed some time ago, seeking repayment of benefits and interest. Mr. Farrier responded to our petition by filing a brief late in January. Mr. Ohler told the Board he has filed a response brief. Mr. Farrier has requested oral argument, and Mr. Ohler

informed the Board he assumes the Court will grant the request. Mr. Ohler added that on February 6, 2007, Mr. Farrier sent Mr. Senn a letter offering to settle our dispute. Mr. Ohler recommended the Board close the meeting to discuss the settlement agreement from Mr. Farrier.

At 11:00 A.M. Chairman Dubbs Closed the Board Meeting to discuss Mr. Farrier's case.

At 11:23 A.M. Chairman Dubbs reopened the meeting to the public.

MOTION/VOTE: Mr. Turcotte moved to decline Mr. Ferrier's proposal without a counter offer. It was seconded by Mr. Layman.

Chairman Dubbs asked for any further discussion. Mr. Ryan stated we should indicate we have already initiated proceedings, and that the motion should direct Mr. Ohler to respond to Mr. Farrier.

Mr. Turcotte amended his motion to direct Attorney Ohler to respond to Mr. Farrier's offer.

MOTION/VOTE: After seeing no further discussion or public comment, the motion carried unanimously.

LEGAL ISSUE: Mr. Ohler presented another legal issue to the Board regarding a beneficiary who was receiving survivor benefits, living in Denmark. The TRS did not learn of Inger T. Davidson's death for a couple of years, therefore, her retirement checks were automatically deposited into her Merrill Lynch account. Once the TRS staff learned of her death, they contacted her family and they in turn contacted Merrill Lynch. The TRS advised Merrill Lynch of the payment due the TRS. As of this date, the TRS has not received reimbursement for these over payments.

Mr. Ohler advised the Board that a letter has been sent to Merrill Lynch, giving them a month to repay the benefits they are holding and advised them we will take other action if they do not refund the amount owed.

Mr. Ohler asked the Board if they would like him to institute legal proceedings if the TRS does not receive a response from Merrill Lynch.

Mr. Turcotte suggested Mr. Ohler immediately contact the Security and Exchange Commission (SEC) and inform them we have submitted these requests, and that they have illegally deposited these funds into the account of a deceased person.

MOTION/VOTE: Mr. Turcotte made a motion to direct counsel to contact the SEC immediately with regard to these funds. The motion was seconded by Mr. Ryan. After seeing no further discussion or public comment, the motion carried unanimously.

FIDUCIARY DUTY OVERVIEW:

Mr. Ohler provided the Board with a guideline and reviewed several areas of interest regarding fiduciary duties and standards of conduct. He shared information regarding the fiduciary duty to

the retirement system. Mr. Ohler shared the Common Law of Trusts and how it affects the TRS Board. In addition, Mr. Ohler included information on the General Standard of Prudent Investments, Duty of Loyalty, Duty to Deal Impartially with Beneficiaries, and Duty to Make the Trust Property Productive. He provided the Board with a Code of Ethics that would apply to the Board.

Mr. Layman asked if an offer of an airline ticket would be considered a gift. Mr. Ohler answered, yes, it would be perceived as a gift. The best policy is to decline.

OTHER BUSINESS:

Out of State Travel Authorization: There is an out-of-state travel authorization for David Ohler to attend the National Association of Public Pension Attorneys, June 25 through June 29, 2007, in Vail, CO.

MOTION/VOTE: Mr. Ryan made a motion to approve the travel authorization for Mr. Ohler. The motion was seconded by Mrs. Pfeiffer. After seeing no further discussion or public comment, the motion carried unanimously.

INVESTMENT REPORT

Mr. Turcotte reported that during the last quarter the Board of Investments reallocated all of the international side of the investment allocation, which cost approximately a million dollars. Mr. Turcotte added the PERS asset liability study is being done and will be presented at the Board's next meeting.

Mr. Ryan commented that not much happened with the Joint Issues Committee Meeting. There was discussion on issues before the Legislature and where there may be common understanding. They discussed the Governor's budget and his intentions to help with the unfunded liability of the Teachers' Retirement System. Mr. Ryan added that he felt those meetings were worthwhile but thought it might be restructured.

COMPREHENSIVE ANNUAL FINANCIAL REPORT

Mr. Dan Gaughan presented the Comprehensive Annual Financial Report for the year ending June 30, 2006. He informed the Board that the reason for the new report was to qualify for the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting. We should find out if we qualified in May or June.

Mr. Gaughan reviewed the new areas of the report and disclosed how GFOA standards affect TRS. He shared with the Board that TRS did get the Public Pension Coordinating Council Award for the current year (2006) Report. He also reviewed the differences between the old and new reports in each section.

Mr. Layman complimented Mr. Gaughan on the new Comprehensive Annual Financial Report.

FINANCIAL STATEMENT

Mr. Gaughan presented the financial statements.

BUDGET STATUS REPORT

Mr. Gaughan indicated we have approximately $3,000 of unused funds on the books that the Board approved for a remodel that we elected not to complete. Mr. Gaughan also pointed out that expenditures, in contracted services, are running under budget as a result of lower than expected fees for consulting professional services. We budgeted $85,000 and have spent only $6,000 so far this year. Mr. Senn informed the Board that there are several legislative proposals that will require substantial actuarial work, but he doubted we will spend anywhere near what we had anticipated.

Mr. Gaughan informed the Board that information technology projects are coming along slower than anticipated for this year; therefore, we foresee that we may need to carry some of this year's budget over into next year.

Mr. Ryan asked about the audit fees. Mr. Gaughan explained that the Legislative Auditor bills agencies on a monthly basis for the hours spent each month. However, because the total hours that will be spent in each fiscal year are unknown at the beginning of each biennium, each year's budget reflects half of the appropriated amount for the two fiscal years. Mr. Ryan pointed out we have used 80% of the audit budget already, and asked if it meant we will go over this budget? Mr. Gaughan responded that the audit fee is a fixed budget amount for the biennium; therefore, the Legislative Auditor will have to live within the amount appropriated for the biennium.

DELINQUENT AGENCY REPORT Mr. Gaughan reported that there were currently no school districts reporting late.

RETIREMENT REPORT Mr. Senn presented the retirement report.

Mr. Dubbs commented he appreciated the format changes in the report.

KARLA SCHARF – 30 YEARS OF DEDICATED SERVICE - Mr. Senn asked the Board to acknowledge Karla Scharf's 30 years of dedicated service with the Montana Teachers' Retirement System. He presented Karla with a plaque and a 30-year service pin. The Board expressed their heart-felt gratitude.

Karla responded with her appreciation for the presentation and added she loves working with the retirees.

CLOSED MEETING

Chairman Dubbs directed the meeting closed at 12:35 PM to review disability applications since the individual's right to privacy of information pertaining to medical information clearly exceeds the merits of public disclosure.

OPEN MEETING

Application for Disability Retirement Benefits – The meeting was reopened to the public at 1:10 PM.

MOTION/VOTE: Mr. Ryan moved to approve the disability application for Susan Niesslein. The motion was seconded by Mrs. Bilden. The motion carried unanimously.

MOTION/VOTE: Mr. Ryan moved to approve the disability application for Kim Kirby. The motion was seconded by Mr. Layman. The motion carried unanimously.

MEETING DATE FOR NEXT BOARD MEETING

Mrs. Peiffer asked if the Board could reschedule the May 11th Board meeting to May 4th or May 18th, since she had a conflicting commitment on May 11th.

MOTION/VOTE: Mr. Turcotte moved to approve the next Board meeting dates as May 18, September 7, and November 16, 2007. The motion was seconded by Mr. Ryan. The motion carried unanimously.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 1:22 PM.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING

May 18, 2007

CALL TO ORDER

Chairman Scott Dubbs called the meeting to order at 9:15 a.m., in the Teachers' Retirement System Conference Room, 1500 East Sixth Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Chairman Scott Dubbs
Member Darrell Layman
Member Tim Ryan
Member James Turcotte
Member Kari Peiffer

ABSENT:

Member Mona Bilden

STAFF PRESENT:

David L. Senn, Executive Director
Dave Ohler, Legal Counsel
Janet Cooper, Benefits Officer
Dan Gaughan, Accounting/Fiscal Manager
Bill Hallinan, Information Technology Manager
Karla Scharf, Retired Payroll Manager
Benefits Officer Janet Cooper

OTHERS PRESENT:

Charlotte Thomas, Retired Teachers' Association
Lance Zanto, DOA/WEB

OPEN MEETING

CALL TO ORDER

ADOPT AGENDA - Chairman Scott Dubbs called the meeting to order at 9:05 am. He asked for additions or changes to the Agenda for May 18, 2006. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda. Mr. James Turcotte moved that the agenda be approved. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

APPROVAL of February 9, 2007 MINUTES - Chairman Dubbs called for any changes to the February 9, 2007, Board Meeting Minutes. Mr. Senn pointed out that the spelling for Karla Scarf should be corrected to Karla Scharf.

MOTION/VOTE: Mrs. Peiffer moved to accept the February 9, 2007 Minutes as corrected. Seconded by Mr. Darrell Layman, the motion carried unanimously.

PUBLIC COMMENT Chairman Dubbs called for Public Comment of Board-Related Items not listed on the Agenda. No Public Comment was made.

EXECUTIVE DIRECTOR'S REPORT

Contracted Services Agreement - Ice Miller Legal Service – Mr. Senn informed with the Board that Ice Miller has been the Teachers' Retirement System (TRS) Tax Counsel for Internal Revenue Service (IRS) issues since 1997. In addition to the usual consulting services, the proposed contract also includes a review of the recent changes made in the Pension Protection Act of 2006, and preparation of a request for an updated Determination Letter. Staff recommends that the Board approve the legal services agreement addendum with Ice Miller, not to exceed $25,000, for fiscal year 2007-08. In addition, the IRS filing fee to request a Determination Letter could run as high as $15,000.

MOTION/VOTE: Mr. Tim Ryan moved to approve the Contracted Services Agreement with Ice Miller Legal Service. Seconded by Mrs. Peiffer, the motion carried unanimously.

Contracted Services Agreement – Alfred Munksgard & Associates – Mr. Senn shared with the Board that TRS has essentially been using the same person to maintain the pension administration system, Pension Plus, since 1992. The contract includes a retainer fee of $4,000 per month, which covers the software, unlimited telephone support, normal maintenance, plus an hourly rate of $140 for special projects. The proposed budget includes two IT projects, WEB Estimator and Member Address Update, which were budgeted in FY 2007, but have not been started. New IT projects related to legislation adopted during the 2007 regular session includes, contribution rate changes, and calculation of interest on dormant accounts.

MOTION/VOTE: Mr. Ryan moved to approve the Contracted Services Agreement with Alfred Munksgard & Associates. Seconded by Mrs. Peiffer, the motion carried unanimously.

Contracted Services Agreement – Milliman Actuarial Services – Mr. Senn reviewed the Milliman's proposed fees for the next two years, together with a summary of the additional projects billed on a time and expense basis during the last biennium through March 2007.

Milliman proposed the fixed fee for consulting services for the next two years be limited to the fees charged for the annual Actuarial Valuations and GASB updates, plus any experience studies the Board chooses to complete. In past years, the fixed fee also included a small general consulting retainer. Mr. Senn reported the fixed fees proposed for the actuarial valuations, GASB schedules, and an active member study are; FY 2008 $85,800, and FY 2009 $46.000. Staff recommended the Board authorize the completion of an Active Member Demographic Study as discussed in the Milliman proposal. In addition, staff recommended $32,000 in FY 2008 and $37,500 in FY 2009 be budgeted for other studies, legislative cost estimates, and miscellaneous costs related to interim legislative work. Staff did not recommend any other special projects discussed in the Milliman proposal.

MOTION/VOTE: Mr. Turcotte moved to approve the Contracted Services Agreement with Milliman Inc as recommended by staff. Seconded by Mrs. Peiffer, the motion carried unanimously.

Further discussion, the Board expressed a strong desire to review the 2-year contract at the September 2008 Board meeting.

MOTION/VOTE: Mr. Turcotte moved that during the September 2008 Board meeting, the Board review options to go out with an RFP for actuarial consulting services. Seconded by Mr. Layman, the motion carried unanimously.

Valuation Asset Smoothing – Mr. Senn informed the Board that "smoothing" is a policy to set aside investment gains in the good years to be offset against losses in the bad years. Prior to the 2006 actuarial valuation, the TRS used a 5-year smoothing method under which only one-fifth of each year's asset gains or losses were recognized in each valuation. Because the smoothing method postponed the recognition of the 2001 & 2002 market losses until the 2005 Legislative Session, the Legislature felt that they were not aware of the funding needs of the system in a timely manner. For this reason, staff recommends the board continue to use market value in future valuations.

Mr. Ryan stated that when dealing with market value, you are dealing with a snapshot that occurs on the 30th of June every year. Mr. Ryan added he strongly believes we should continue to smooth asset gains and losses.

Mr. Turcotte made note that he agrees with not smoothing losses, then asked what about smoothing gains over a determined period and recognizing losses immediately.

Mr. Senn responded that actuarial standards require you use the same method for smoothing gains and losses. He added the advantage of smoothing is that it does remove the volatility and questions in required contribution rate changes that can result when there are significant asset gains or losses. If the Board chooses to resume using an asset smoothing method, staff would recommend that gains and losses be smoothed over 4 years, and that the difference between the market value of assets and the smoothed value of assets never be allowed to be more than 15%.

MOTION/VOTE: Mr. Turcotte moved that we continue smoothing over 4 years with boundaries that smoothed assets not be more or less than 15% of the market value of the fund. Seconded by Mr. Ryan, the motion carried unanimously.

Workers' Compensation Refund and Policy Endorsements – Mr. Senn provided the Board with two memos from Janet Kelly, Director, Department of Administration (DOA), explaining the workers' compensation refund due the TRS. Director Kelly also requested TRS transfer part of the refund to the DOA to help defray the start up cost for the Department to manage and oversee the state's workers' compensation insurance for all agencies. TRS' donation would be $205.

Mr. Senn introduced Mr. Lance Zanto, Dept of Administration. Mr. Zanto informed the Board that in the last year, worker's compensation collected $17.5 million in premiums, for approximately 13,000 state employees. He informed the Board that he will be implementing three different programs next year, of which he will be in charge of the policy development. They will be hiring an early return to work person who will be available for all agencies, and the third area will be a safety person.

Mr. Zanto added that the state has 38 different policies. The State Fund has taken the opinion that they have 38 individual policies with 38 individual agencies. He has tried to come up with ways to represent those agencies in a workers' comp policy pricing, claims management, and underwriting. He added his roll is not to replace or to take over control for a state agency, but more to be a liaison or advocate for them.

MOTION/VOTE: Mr. Ryan moved to approve the workers' compensation contribution of $205 as well as having the Department of Administration represent us in negotiations with workers' compensation. Seconded by Mr. Layman, the motion carried unanimously.

2007 LEGISLATION –Mr. Senn informed the Board the status of various bills before the 2007 Legislature.

Senate Bill 33 would have required state and local government agencies to develop procedures regarding Social Security numbers and to provide notification of any computer security breach involving a government agency or third party contracting with government. This bill was tabled in committee April 18, 2007.

Senate Bill 467 would have completely revised the Board of Investments (BOI) membership makeup by reducing the size of the Board from 9 members to 7 and adding to the Board the executive directors from TRS and Public Employee Retirement System (PERS). The bill was amended to add two ex-officio legislators to the Board and was signed by the Governor April 10, 2007.

House Bill 771 affects all three boards; TRS, BOI, & PERS. This bill spells out requirements that must be summarized in annual reports, such as; asset allocation, past and expected investment performance, investment goals and strategies, and investment performance compared with other states. The BOI must also present all this information at a public meeting to the PERS and TRS Board. HB 771 was signed by the Governor April 26, 2007; effective June 1, 2007.

Mr. Dubbs asked if it would be possible to simply have one joint board meeting a year with all three boards to discuss and share this information.

House Joint Resolution 59 is a resolution to study public employee retirement systems, produce a legislator's guide on Montana's public employee retirement plans that includes comparisons of plan design and funding options, and offer findings and recommendations. Mr. Senn informed the Board it is his goal to see a study that looks at a new plan design for teachers.

Charlotte Thomas, Retired Teachers' Association, asked Mr. Senn to explain HB 63.

Mr. Senn explained that House Bill 63 was introduced at the request of the Teachers' Retirement Board, As adopted, HB 63 closed loopholes, provided for an infusion of $50 million, and increased the employer contribution rate 2.0% effective July 1, 2007, and an additional 0.38% effective July 1, 2009. The rate increases will be paid by the state general fund for school districts, counties, and community colleges. HB 63 was signed by the Governor April 27, 2007.

Senate Bill 72 requires members of the Public Employees' Retirement Board to be appointed by the governor and confirmed by the senate. HB 72 was signed by the Governor March 27, 2007.

House Bill 81 was introduced at the request of the Teachers' Retirement Board. HB 81 is a housekeeping, general revision bill, making administrative changes to the Teachers' Retirement System laws. HB 81 was signed by the Governor March 30, 2007.

House Bill 131 is an Administration's bill to make the Public Employees, Sheriffs, and Game Wardens retirement systems actuarially sound. It raises employer contributions in each of the systems and reduces the 3.0% Guaranteed Annual Benefit Adjustment for members hired after July 1, 2007, to 1.5%. HB 131 was signed by the Governor May 3, 2007.

LEGAL CASE UPDATE – Mr. Dave Ohler informed the Board that TRS did receive the $14,000 in overpaid funds from Merrill Lynch, for deceased member, Inger T. Davidson.

OTHER BUSINESS:

Interest Rate Credit to Member Accounts - Each year the Board is required to set the rate of interest that is credited to active member accounts. The current rate is 4.0%. Historically, the interest rate has been set close to the short-term investment rate earned by the Board of Investments, but by statute not less than 4.0%. Amendments included in HB 63 removed the minimum rate of interest the Board may set.

Mr. Senn provided the Board with charts compiled by the accounting staff showing the year-to-date short-term returns. Mr. Senn informed the Board that staff recommends the interest rate credited to member accounts for the period July 1, 2007, through June 30, 2008, be increased to 5.0% percent.

MOTION/VOTE: Mr. Layman moved that the interest rate credited to member accounts for the period July 1, 2007, through June 30, 2008, be increased to 5.0% percent. Seconded by Mrs. Peiffer, the motion carried unanimously.

TRS 2007-08 Budget – Mr. Dan Gaughan presented the proposed budget for the fiscal year beginning July 1, 2007, through June 30, 2008, and justification. Mr. Gaughan informed the Board that the Legislature passed a 3% increase in the base salary amount in each of the next two years, and an increase in the ten-year longevity increment from 1.5% up to 2% effective

July 1, 2007. Mr. Gaughan reviewed health insurance benefits, which is a separate component from salaries, and showed that the single insurance premium reimbursement will go up January 1, 2008, from $557/month per person to $590/month per person. Mr. Gaughan continued to review each component of the budget in detail.

Mr. Dubbs asked; what items were listed under 'other compensation' under personal services.

Mr. Gaughan informed the Board that 'other compensation' includes the Board per diem.

Mr. Ryan made note that Mr. Gaughan's report was thorough and he did an excellent job explaining the new budget.

Bill Hallinan, Information Technology (IT) Manager, presented a status report of the TRS computer environment, studies, future needs, and the FY 2008 proposed IT budget. Mr. Hallinan provided and reviewed a worksheet that presented the IT accomplishments this past year and goals for the upcoming year.

In addition, Mr. Hallinan shared that preparing for disaster recovery and business continuity are cost items that will be addressed in future budgets. There are things we can do to improve disaster recovery and business continuity without major costs; for example, we could perform an exercise with a couple of work bins. Have each business unit put all items they feel they would need to perform their work, if they could no longer get into the TRS building. In a month, follow-up with a table exercise where you bring everyone into the room, tell them, "Well the building just shut down lets get back to work." If people don't have what they need on the table they need to give it more thought. It is a good reminder of the importance of disaster planning.

Mr. Turcotte asked; if we lose our one consultant, Alfred, would we be able to continue with our operation without change. Bill responded that if we no longer had Alfred, we could continue our operation for about one year. It would be advisable at that time to consider putting another system in place. Mr. Dubbs asked; what are the possibilities of our system becoming obsolete soon. Bill responded our system is fairly stable and does what we need it to do. We are continually looking at other systems and will continue to prepare for future needs.

MOTION/VOTE: Mr. Ryan moved to adopt the budget recommended by staff for FY 2008. Seconded by Mr. Turcotte, the motion carried unanimously.

Out-of-State Travel – Mr. Senn presented out-of-state travel requests for two Board members and the Executive Director to attend the NCTR Annual Conference to be held in Scottsdale AZ, October 6-11, 2007. Board members scheduled to attend this year's convention are Tim Ryan and Scott Dubbs.

Mr. Senn informed the Board that the NCTR also offers a Trustee Workshop each summer, which could be attended in lieu of, or in addition, to the annual NCTR conference as another educational opportunity for Board members.

MOTION/VOTE: Mr. Layman moved to approve Mr. Ryan, Mr. Dubbs, and the Director, David Senn, to attend the NCTR Annual Conference or the NCTR workshop of their choice. Seconded by Mr. Turcotte, the motion carried unanimously.

PRISM Conference Report – Bill Hallinan reported the major value of attending the April PRISM conference is networking with 50 other IT managers, finding out what and how are they planning their retirement systems, and hearing three exceptional background speakers. Bill reported on various workshops he attended...

Mr. Turcotte asked if it would be wise for PERS to backup TRS and vice versa. Mr. Hallinan responded; that scenario really wouldn't be a recovery system. Mr. Turcotte added that we should keep in mind that it might be financially beneficial to share a facility with PERS, at an off-site, non-local recovery location.

Mr. Hallinan shared information regarding call centers, and how they could help members get information during a crisis or disaster. Mr. Turcotte asked if having phone calls logged to a member's file would be of value. Bill took note of the suggestion.

Next Meeting Date – Mr. Senn reminded the Board that the next two Board meetings are set for September 7, and November 16, 2007.

Mrs. Peiffer commented that her position will soon expire. Mr. Senn suggested she reapply through the governor@mt.gov link. Mr. Senn added he would be willing to write a letter of recommendation to the Governor. Mr. Dubbs also offered to give Mrs. Peiffer a recommendation.

Investment Report – Mr. Turcotte shared with the Board an interesting article on Private Equity and reviewed the asset allocation and performance reports, which showed the asset allocation broken down by individual plan and the returns for the quarter ending March 31,, 2007. Mr. Turcotte pointed out that the total value of the pension assets grew by 142 million during the quarter reflecting positive returns across all asset classes.

Financial Statements, Budget, Delinquent Agency, and Travel Reports - Mr. Gaughan reviewed the financial statements with the Board. Mr. Gaughan pointed out that the change in the fund balance and investment earnings is well above last years earnings at this point in time. Mr. Gaughan explained that the fund balance does not reflect the $50 million infusion..

There were no delinquent agencies to report.

RETIREMENT REPORT - Service Retirements and Survivor Benefits – Staff provided the Board with a list of members who have recently retired.

CLOSED MEETING

Chairman Dubbs directed the meeting closed at 12:16 p.m. to review disability applications since the individual's right to privacy of information pertaining benefits clearly exceeds the merits of public disclosure.

OPEN MEETING

Application for Disability Retirement Benefits – The meeting was reopened to the public at 12:44 p.m.

MOTION/VOTE: Mrs. Peiffer moved to approve the disability application for Nora L. Kohler. The motion was seconded by Mr. Turcotte. Finding none, the motion unanimously carried.

MOTION/VOTE: Mr. Ryan moved to approve the disability application for Jeannice R. Malsom. The motion was seconded by Mr. Turcotte. Finding none, the motion unanimously carried.

MOTION/VOTE: Mr. Turcotte moved to approve the disability application for Marilyn L. Grismer. The motion was seconded by Mrs. Peiffer. Finding none, the motion unanimously carried.

MOTION/VOTE: Mr. Layman moved to approve the disability application for Ronda L. Noland. The motion was seconded by Mrs. Peiffer. Finding none, the motion unanimously carried.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:44 p.m.

Chairperson S/S/ Scott Dubbs

Executive Director S/S/David Senn

TEACHERS' RETIREMENT BOARD MEETING

SEPTEMBER 21, 2007

CALL TO ORDER

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement System Conference Room, 1500 East Sixth Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Chairman, Scott Dubbs
Mona Bilden
Darrell Layman
Kari Peiffer
Tim Ryan
James Turcotte

STAFF PRESENT:

David L. Senn, Executive Director
Tammy Rau, Deputy Executive Director
Dave Ohler, Legal Counsel
Janet Cooper, Benefits Officer
Dan Gaughan, Accounting/Fiscal Manager
Bill Hallinan, Information Technology Manager
Karla Scharf, Retired Payroll Manager
Johnelle Sedlock, Benefits Officer
Carol Van Liew, Retired Benefits Technician

OTHERS PRESENT:

Charlotte Thomas, Retired Teachers' Association
David L. Gay, TRS Member
LouAnn Gay, Spouse/TRS Member
Darrell Rud, State Administrators of MT
Michael Laden, TRS Member
Geni Laden, Spouse/TRS Member
Richard Larson, Attorney for Michael M. Laden, MEA-MFT
Michael Hodges, Self & MEA AFT
Kathy Braun, OPI
Denise Pizzini, future TRS Attorney

CALL TO ORDER

ADOPT AGENDA - Chairman Scott Dubbs called the meeting to order at 8:30 am. He asked for additions or changes to the Agenda for September 21, 2007. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda. Mrs. Kari Peiffer moved that the agenda be approved. Seconded by Mrs. Mona Bilden, the motion

carried unanimously.

APPROVAL OF MAY 18, 2007 MINUTES - Chairman Dubbs called for changes to the May 18, 2007 Board Meeting Minutes. There was none.

MOTION/VOTE: Mr. Tim Ryan moved that the May 18, 2007 Board Meeting Minutes be adopted. Seconded by Mr. Darrell Layman, the motion carried unanimously.

PUBLIC COMMENT

Chairman Dubbs called for public comment on Board related items. There were no comments.

Mr. Senn informed the Board that Attorney David Ohler will no longer be the TRS attorney, and introduced Denise Pizzini as the new TRS Counsel. The Board welcomed Ms. Pizzini.

INDIVIDUAL PETITIONS

Michael Laden Appeal

Mr. Senn informed the Board that Mr. Laden is appealing his retirement date. It was staff's determination that Mr. Laden was in a 'leave without pay' status on June 1, 2007; therefore, he was in a position reportable to the Teacher's Retirement System until June 1, 2007 and not eligible for retirement benefits until July 1, 2007, the first day of the month following termination.

Staff was informed that the end of school term for Cut Bank Schools was June 1, 2007. Scott Laird, Business Manager, provided TRS with a letter, dated July 10, 2007, stating that Mr. Laden 'took June 1 as Leave Without Pay'.

Attorney Rick Larson, MEA-MFT, represented Mick Laden in his appeal. Mr. Larson explained that Mr. Laden took leave for medical reasons on June 1, 2007, was not paid for working June 1, 2007, and that he was not under contract on June 1, 2007. He pointed out that he received a cut in his contract pay.

Mr. Larson presented a second letter from Mr. Laird proposing that there were some misconceptions with his July 10, 2007, letter. The second letter stated Mr. Laden terminated his contract on May 31, 2007, and his contact was reduced accordingly.

Chairman Dubbs asked the Board for questions and discussion. Mrs. Mona Bilden asked Mr. Senn if we have similar cases where other retirees quit in May, and the school contract ended June 1, 2007. Mr. Senn indicated there no similar cases that he knew of. Janet Cooper confirmed that staff does base termination as the completion of a contract, which ends the last day of school.

Mr. Laden asked if there were teachers who did retire in April. Mrs. Cooper answered that members retire every month of the year.

Mr. Tim Ryan expressed concerns with setting precedence. If the Board was to approve this appeal, we would be sending out a message that it is okay to retire a day or so early, without pay, and then receive an extra month of retirement pay.

Mr. Dubbs asked if the school terminated benefits on May 31, 2007, or did these benefits continue through June 1, 2007. Was his insurance prorated since he did not work a full contract?

Mr. Laden stated his health benefits did continue because he was paying for them.

Mr. Dubbs voiced his concern and indicated that the position the Board faced was that they could not have a door open where retiring members could choose to miss a day or two of school to reap an additional retirement check. Mr. Dubbs voiced his concerns that the Cut Bank School's information and position regarding Mr. Laden's contract was vague. The Board needs to know if Mr. Laden's contract included salary and benefits.

Regarding his contract, Mr. Laden pointed out that he could quit at anytime and his pay would have been prorated accordingly. If he had retired April 30, 2007, he would have received retirement benefits in May 2007.

Mr. Laden read a letter provided by D. Scott Laird, Business Manager of the school, dated September 19, 2007, which clarified his earlier statements that Mr. Laden was not at the school on June 1 and was not paid for that day.

MOTION/VOTE: Mr. Ryan moved that the Board request further clarification from the Cut Bank School District regarding salary and benefits paid Mr. Laden, past practices of the District, verification of Mr. Laden's last day of pay, and any other information that would have a bearing on Mr. Laden's case. Mr. Ryan further moved the Board postpone their decision until the next Board meeting. Seconded by Mr. Layman, the motion carried unanimously.

David Gay Appeal

Mr. Senn summarized for the Board Mr. Gay's situation, explaining staff found that Mr. Gay's duties as technology coordinator/aide since 1998 were not reportable to the TRS and that his service must be transferred to PERS. Mr. Gay had been employed as a technology coordinator since 1998 with wages reported to TRS.

Mr. Gay, along with his spouse, LouAnn Gay, passed out a packet to the Board regarding his appeal explaining the process they had gone through preparing for retirement. Mrs. Gay provided handouts from the superintendent of the district that showed student contact times and verified Mr. Gay's assistance in networking

classes that he taught, documenting that Mr. Gay had contract with students and he taught 'SISCO' classes.

MOTION/VOTE: Mr. Turcotte moved to grant Mr. Gay's appeal. Seconded by Mr. Ryan, the motion carried unanimously.

Mr. Dubbs commented that the question regarding technology coordinators is still not resolved. The Board discussed issues involving teachers who are part-time technology coordinators and whether they should contribute to PERS or TRS.

MOTION: Mr. Turcotte moved that the Board look into the technology coordinator issue and work to resolve the concerns of retirement system membership. He further moved to grandfather existing technology coordinators reporting to TRS. Seconded by Mr. Layman.

Discussion:
Mr. Dubbs pointed out that in smaller schools technology coordinators have other duties as well, and to open the door for a position that is 'clearly' a PERS position would not serve TRS.

The Board discussed the area of technology coordinators and agreed they needed to consider what ramifications there would be if individuals were required to change retirement systems.

WITHDRAW MOTION/MOTION/VOTE: Mr. Turcotte withdrew his previous motion. He moved that staff research the technology coordinator issue and come up with recommendations to resolve the TRS/PERS membership concerns. He further moved that staff recommendations include what to do with existing technology coordinators reporting to TRS. Seconded by Mr. Layman, the motion carried unanimously.

William Colter Appeal

Mr. Senn summarized for the Board Mr. Colter's appeal, explaining that Mr. Colter's application for retirement was suspended when staff discovered that Charlo Public Schools had split the Superintendent's position into two contracts for the 2007-08 school year, one contract as the part-time Superintendent ($25,000) and a second for Director of Buildings and Grounds ($35,000).

Mr. Senn informed the Board that a questionnaire was sent to the Charlo School Board Chairman, Mr. Gregg B. Shafter, regarding the hiring of the Superintendent. Question number 9 asked if the previous Superintendent was part-time or full-time and asked if the previous Superintendent had additional duties other than those specified in the current job descriptions, and what those duties were. Mr. Shafter responded that the carving out of the Buildings and Grounds is something that developed over the past two to three years, materializing with the hiring of Mr.

Colter, confirming that the Superintendent's position had been divided into two positions when Mr. Colter was hired.

Mr. Colter shared with the Board his background information and what led to his need to address the TRS Board. Before signing the contract for the Buildings and Grounds position, he stated he met with the Charlo School Board and they assured him there were two different positions. He was hired as the Superintendent contributing to TRS and was also hired as the Director of Building and Grounds contributing to PERS.

Mr. Colter shared a letter from the School District, in which the District asked, that they be compared to other schools. The letter from the District pointed out that there are other schools with similar contracts and the members have not been denied retirement benefits. The District argued that the Director of Buildings and Grounds is not a TRS position.

Mrs. Peiffer asked Mr. Senn, had they only offered Mr. Colter only the Director of Building and Grounds, and not the Superintendent's contract, would his contributions be entirely PERS? Mr. Senn informed the Board that we would never have been aware of the contract. Mr. Senn added that Mr. Colter indicated in several of his correspondence that other districts were doing this same thing. He informed the Board that this was the first he has heard of this.

Mr. Ryan asked Mr. Colter, since he had stated he had examples of other school districts that had the same kind of contracts with people receiving retirement benefits, would he share them with the Board. Mr. Colter stated he would have to talk to legal counsel and see if he could get the names, but he knew of three or four Superintendents that were doing the same thing; they had the same contracts and were receiving retirement benefits.

In clarifying, Mrs. Peiffer asked, if he had meant a third-time superintendent and two-thirds PERS contracts. Mr. Colter confirmed this was what he meant.

Mr. Dubbs asked, if the Charlo School District had other administrators to cover the administrative duties that a superintendent would do while he is the Director of Buildings and Grounds.

Mr. Colter responded that he had a full-time 8th grade principal and a half-time high school principal.

Mr. Dubbs pointed out that Mr. Colter mentioned that other superintendents also had jobs that were divided up. Mr. Dubbs asked if that was correct. Mr. Colter responded that was correct. Mr. Dubbs then asked if those individual's salaries were reported entirely to the TRS. Mr. Colter answered that the Board would have to talk to them, because he had not read how the other contracts were worded.

Mr. Layman asked, since Mr. Colter carried two hats, when a decision was going to be made, did he act like a Superintendent or the Director of Buildings and Grounds?

Did Mr. Colter wear one hat that covered him as Director of Building and Grounds when he spoke to insurance adjusters, or did he, as the Director of Building and Grounds refer insurance adjusters to the Superintendent, which was also Mr. Colter, to make the recommendation to the school board? Who made that recommendation? How did he separate the two positions?

Mr. Colter responded that no matter what, he presents all the information to the School Board under both hats and they make the decisions.

Mr. Layman asked if the school board addressed him as the Superintendent or as the Director of Building and Grounds. Mr. Colter answered they addressed him as both.

Ms. Peiffer asked when they were recruiting Mr. Colter was it ever discussed that he would have the superintendent position, he would have buildings and grounds position, and he would also have his retirement? Mr. Colter answered that when he walked around the school grounds with the Board Chair, before taking the position, he asked the Chairman what his plans were and was told they were looking for someone with a construction or maintenance background or they would have a difficult time making changes.

Mrs. Bilden stated that no one is questioning Mr. Colter's hard work or the need of Charlo Schools, but what she was hearing was the need for a full-time superintendent's job. She added that if more and more districts start doing this, one-third time superintendent and then adding another title, and then another title, when basically it was in reality a full-time superintendent position, it would have adverse ramifications for the retirement system. Mr. Colter commented that was not how he saw it and felt that in no way did he break the law. Mrs. Bilden answered that she did not say he broke the law, what she heard in the job descriptions is that he is a full-time superintendent. He added he does not think he is doing a full-time superintendent's job.

Mr. Ryan noted that the Board was sympathetic to the problems that smaller school districts are having, unfortunately, the Board has a responsibility to all the members of the TRS, and they need to deal with the actuarial under-funding and the issues that have caused that. These are the types of issues that cause the TRS to be used as a vehicle to hire retired members full-time and allow them to collect retirement benefits. The TRS Board member's first responsibility has to be the fiduciary responsibility to all of the members of the TRS.

Mr. Colter responded that there are many people doing the same thing he is doing, and he followed their example by what he was offered. He wanted to know why these other people have never been called up before the TRS Board. He added he talked with three or four of them already and there had been no problem.

Mr. Ryan asked Mr. Colter to give the Board some examples.

Mr. Layman asked Mr. Colter, if they offered him a single contract for the combined amount, would he have accepted it? Mr. Colter answered he would not have accepted it because he could not be a full-time superintendent and spend the time he needs to be the Director of Buildings and Grounds.

MOTION/VOTE: Mr. Ryan moved to deny Mr. Colter's petition. Seconded by Mr. Turcotte, the motion carried unanimously.

EXECUTIVE DIRECTOR'S REPORT

Mr. Senn informed the Board that based on preliminary valuation results as of July 1, 2007, the amortization period will be 28.6 years.

ADMINISTRATIVE RULES

Mr. Senn informed the Board that the deadline for comment on the first set of proposed administrative rule changes in the Board's packet was September 20, 2007. Mr. Senn reported, to date, no comments had been received. The effective date of the proposed changes will be October 5, 2007.

Mr. Senn asked the Board and public for any questions or comments on the proposed rule changes. No comments were received.

Mr. Senn reviewed a second set of proposed changes that will be noticed for adoption without hearing as soon as possible.

SAVA COMMITTEE MEETING

Mr. Senn reported that the State Administration and Veterans' Affairs Committee (SAVA) met June 21, 2007. The committee adopted a study plan for House Joint Resolution 59, which was the retirement system study bill passed by the 2007 Legislature. The committee's Workplan called for completion of hearings on plan design and proposed legislation by April 2008 The committee will meet on Oct 20 to take testimony from the various stakeholders on plan design and any changes they believe needed to be made to the retirement systems administered by the State.

Mr. Senn informed the Board that he and Mr. Dubbs had met with school administrators, MEA-MFT, and several superintendents in August. The group discussed the needs of school districts and how they could use the retirement system to retain qualified teachers and administrators.

Mr. Darrell Rud, School Administrators of Montana, indicated they had a proposal in progress, taking input from Mr. Senn and everyone else at that meeting. He informed the Board they have had only one other sub-meeting in Billings with some of the superintendents to get ideas from the field. At this time, they are collecting data to help them formulate a message to give to the SAVA committee in October.

Mr. Senn passed out a report on retirees by agency type, showing administrators and teachers, and whether they currently reside instate or out-of-state.

LEGAL COUNSEL REPORT

Mr. Ohler informed the Board that regarding the Farrier case, Monday, Sept. 24, 2007, would be the last day for Mr. Farrier to file an appeal. To date, he had not seen an appeal.

Mr. Ohler expressed appreciation to the Board for allowing him to attend the NAPPA Conference in Vail. He shared information regarding the Pension Protection Act of 2006, and an exotic issue from the Texas retirement systems where Federal Victim Restitution Act trumped state law so that if a person was convicted of a federal crime, the federal prosecutor could reach in and seize retirement benefits to pay victims. Mr. Ohler recommended that his replacement attend the NAPPA conference next year.

The Board extended best wishes to Mr. Ohler.

HB13 ADJUSTMENTS

Mrs. Tammy Rau explained to the Board that during the last legislative session HB13 passed which granted not only a 3% increase in salary for state employees for the 2007and 2008 fiscal years, it also included a .06% discretionary funding that state agencies could use to increase employee salaries based upon, but not limited to, market progression, job performance, or employee competency.

Mrs. Rau recommended to the Board that in the 2008 fiscal year the Board use the .06% increase for retention, applying it to all staff. The second year she recommended using the money to bring staff up to their target market ratio. Mrs. Rau reminded the Board that TRS had target market ratios set based upon years of service, and that range went from 0-9 years of service. After 9 years of service, staff should be at 100% of market.

Mr. Ryan asked how broad the research was to the comparable salaries in the private sector. Mrs. Rau informed the Board that when they did the salary survey it included public retirement systems in seven surrounding states. They also picked up the State Fund, tossed out high/low ends, and used the state's market rate as part of that survey. Mrs. Rau expressed confidence that the information they used was reliable and competitive market salaries for Montana. Mrs. Rau pointed out that the majority of the TRS staff was at 85% of market. Mrs. Rau informed the Board HB13 will be effective October 1, 2007.

MOTION/VOTE: Mr. Ryan moved to adopt the proposal of the two year plan for the 0.6% adjustments as recommended by staff. Seconded by Mrs. Peiffer, the motion carried unanimously.

BOARD OF INVESTMENTS

Mr. Turcotte shared with the Board that returns for the last fiscal year was just under 18%. Mr. Turcotte gave an in-depth review of asset allocations within the portfolios for the retirement plan, which was approaching the ranges that has been established for the various asset classes.

NCTR TRUSTEE WORKSHOP

Mr. Dubbs reported the NCTR Trustee Workshop in Boston was geared specifically to trustees. It was a small setting with 80-90 people, so he was able to network with states that were comparable with TRS. The conference offered discussions on communication and issues that related to trustees. Mr. Dubbs shared with the Board a book about Social Security, discussing where the system was at and what needed to happen with Social Security by 2040.

Mr. Dubbs added that in Montana we seldom have a discussion on how important our Social Security System is to our retirement. Understanding the Social Security issues is important and we should do more in-service as well and show how this affects retirees. Mr. Senn offered to get copies of this book and see that the Board and staff receive a copy.

GFOA CONFERENCE

Mrs. Rau reported to the Board she attended the GFOA Conference involving classes on management, enhancing employee programs, skills and knowledge, and looked at how important personality was to the hiring process as opposed to experience. Mrs. Rau expressed this was a good conference and was one she'd like to attend again in the future.

NEXT MEETING DATE

Next Board meeting date will be November 16, 2007. The Board concurred that this date worked for them.

FINANCIAL STATEMENTS/BUDGET/TRAVEL REPORT

Mrs. Rau asked the Board if they had any questions regarding the Financial Statements and budget previously submitted. Mrs. Rau pointed out the Board packet included the Financial Statements for the Fiscal Year ending June 30, 2007, as well as the budget reports.

Mr. Ryan asked what the intangible assets were. Mrs. Rau stated TRS wrote off over $501,000 of the PeopleSoft projects that were no longer in production and added Alfred's enhancements to the Pension Plus programs.

Mr. Layman commented that the Board really appreciated Mr. Turcotte's report. He asked what the possibility was that he could give a short seminar on understanding the numbers the Board deals with at a future meeting. Mr. Ryan suggested Mr. Turcotte define some of the terms along with his reports at future meetings, particularly now that the whole landscape has changed from internal management to external managers.

At 1:47 PM Chairman Dubbs left the meeting. Vice-Chair, Mrs. Kari Peiffer, chaired the remainder of the meeting.

APPLICATIONS FOR RETIREMENT BENEFITS

Mr. Senn reported to the Board that the applications for benefits list was modified and sorted by retirement type, by school district, and by service. The Board discussed the average age that has been creeping up each year, and also early retirements. The Board voiced an overall feeling that they liked the change of the report. The Board also discussed the varying degrees of termination pay and how they differ from school district to school district.

CLOSED MEETING

Vice-Chair Peiffer directed the meeting closed at 1:53 PM to review disability applications since the individual's right to privacy of information clearly exceeds the merits of public disclosure.

OPEN MEETING

Discontinue Disability Review /Application for Disability Retirement Benefits – Vice-Chair Peiffer directed the meeting reopened to the public at 2:03 PM.

MOTION/VOTE: Mr. Ryan moved that Anne C. Rusoff, Margaret A. Simmons, and Craig Wren be 'excluded' from future annual earnings and medical reporting requirements. Second by Mr. Layman, the motion carried unanimously.

MOTION/VOTE: Mr. Turcotte moved that the disability application for Melinda J. Juneau be disapproved. Seconded by Mrs. Bilden the motion carried unanimously.

MOTION/VOTE: Mrs. Bilden moved that the disability application for Karla D.

McGraw be approved. Seconded by Mr. Turcotte the motion carried unanimously.

ELECTION OF OFFICERS

MOTION/VOTE: Mrs. Mona Bilden moved to nominate Mr. Tim Ryan as the next chairman of the TRS Board. The motion was second by Mr. Turcotte, the motion passed unanimously.

MOTION/VOTE: Mr. Tim Ryan moved to nominate Mrs. Kari Peiffer for Vice-Chair of the TRS Board. The motion was second by Mr. Turcotte, the motion passed unanimously.

ADJOURNMENT

There being no further business, Mr. Layman motioned to adjourn the meeting. The motion was second by Mrs. Bilden, the motion passed unanimously and the meeting was adjourned at 2:10 PM.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING

NOVEMBER 16, 2007

CALL TO ORDER

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Board of Investments Conference Room, 3rd Floor, 2401 Colonial Drive, Helena, Montana.

BOARD MEMBERS PRESENT:

Chairman, Tim Ryan
Mona Bilden
Scott Dubbs
Darrell Layman
Kari Peiffer
James Turcotte

STAFF PRESENT:

David L. Senn, Executive Director
Tammy Rau, Deputy Executive Director
Denise Pizzini, Legal Counsel
Janet Cooper, Benefits Officer
Dan Gaughan, Accounting/Fiscal Manager
Bill Hallinan, Information Technology Manager
Karla Scharf, Retired Payroll Manager
Rita Karnopp, Executive Assistant

OTHERS PRESENT:

Charlotte Thomas, Retired Teachers' Association
Darrell Rud, State Administrators of Montana
Tom Bilodeau, MEA-MFT
Jerry Pauli, MASS
Mark Olleman, Milliman
David Ewer, Budget Director
Madalyn Quinlan, OPI
Kathy Bramer, OPI

CALL TO ORDER

ADOPT AGENDA - Chairman Tim Ryan called the meeting to order at 8:30 am. He asked for additions or changes to the Agenda for November 16, 2007. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Mr. James Turcotte moved that the agenda be approved. Seconded by Mr. Darrell Layman, the motion carried unanimously.

APPROVAL OF SEPTEMBER 21, 2007 MINUTES - Chairman Ryan called for changes to the September 21, 2007 Board Meeting Minutes. Mrs. Rau asked that Carol Van Liew's title be changed from Retired Benefits Specialist to Retired Benefits Technician. Chairman Ryan called for any other changes, finding none he called for a motion.

MOTION/VOTE: Mr. Darrell Layman moved that the minutes be approved as corrected. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items.

Mr. Darrell Rud, State Administrators of Montana, stepped forward and made comment that David Senn, Mark Olleman, and Scott Dubbs joined in a focus group on Thursday, November 15, 2007, to continue their discussion of how to make the system better for the future. He wanted to thank those individuals that have been willing to give of their time to discuss future needs, which he found to be extremely helpful.

Chairman Ryan noted the Board appreciated Mr. Rud's comments.

ACTUARIAL VALUATION - Mr. Mark Olleman, Milliman, presented the results of the 2007 Actuarial Valuation explaining that the System was actuarially sound with an unfunded actuarial accrued liability of $768.9 million and amortization period of 28.6 years.

Mr. Jerry Pauli, MASS, shared his appreciation to the Board for their concerns and help making the system actuarial sound, and he liked what he was hearing from the TRS Board. He shared that the SAVA Committee would be meeting in the spring and would share with the Board decisions that might impact the system. He talked about the complex issues of better education for teachers regarding average salaries and how that would affect the retirement system.

UPDATE ACTUARIAL FACTORS – Mr. Olleman recommended the service purchase factors, the optional allowance factors (A, B, and C), the certain and life reduction factors, and the present value annuity factors be updated to reflect the results of the most recent actuarial valuation.

Mr. Senn reminded the Board that previous changes to the optional retirement allowances and term certain factors have been effective with terminations after July 1 of the following year; therefore, members planning their retirement on June 30, 2008, would not be impacted by the changes. .On the service purchases factors, Mr. Senn explained, the statutes require that the cost be based on the most recent actuarial valuations, so these changes would be effective December 1, 2007.

MOTION/VOTE: Mr. Turcotte moved to accept the changes to the optional retirement allowances and term certain factors for the retirement benefits effective July 1, 2008,

and for the service purchase and present value annuity factors to be effective December 1, 2007. Seconded by Mrs. Mona Bilden.

Chairman Ryan asked if there was further discussion on this issue.

Mr. David Ewer, Budget Director, State of Montana, stated he didn't understand the motion on the table as what it may do to the financial impact to the fund.

Mr. Olleman answered that these factors are actuarially neutral; they are being updated so that future retirements won't have an actuarial impact on the system.

Mrs. Tammy Rau commented that based on Mr. Senn's summary, he wanted the effective date to be after July 1, 2008, and questioned whether the motion specified that.

Mr. Senn clarified the motion should read 'for the retirement benefits effective after July 1, 2008.'

MOTION/VOTE: Chairman Ryan asked for any further comments and if everyone understood the motion. Mr. Turcotte moved to amend his motion to accept the changes to the optional retirement allowances and term certain factors for retirement benefits effective after July 1, 2008, and for the service purchase and present value annuity factors to be effective December 1, 2007. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

Mr. David Ewer, Budget Director, commented to the Board how much the Governor's office appreciated the TRS Board's service. He pointed out that a year ago the TRS had a system that did not amortize the unfunded liabilities. However, this past year the TRS has had very good returns which was part of making the system actuarially sound. The other big component was that the general fund has stepped up to pick up the required contribution rate increase, and put $150 million into the system, which is not likely to be a common occurrence. Mr. Ewer added that the people of Montana have made fantastic progress.

In listening to Mr. Olleman's actuarial valuation results, Mr. Ewer commented he hoped everyone was as impressed with the report as he was. He added that he had come on behalf of Governor Schweitzer to thank the Board for their service and for having the foresight and political courage to have a bill that was not uncontroversial to fix this problem and they appreciated the work it took to the get this bill passed.

Chairman Ryan asked for questions or comments from the Board. Mr. Ryan complimented Mr. Ewer for the open dialog between the Board and the Governor's office.

Mrs. Peiffer commented that as a member of the TRS Board, a member of the TRS, and as a taxpayer of the State of Montana, that she applauds Governor Schweitzer for supporting the $150 million cash infusion into the TRS.

In attempting to resolve the potential problems with the TRS, Mr. Scott Dubbs commented that the communications from Mr. Ewer's office as well as the Governor have been tremendous.

Mrs. Mona Bilden also added her appreciation for all that Mr. Ewer's office and Governor Schweitzer have done.

Mr. Turcotte commented that in the last several years that he has been on the TRS Board and BOI, that the understanding among the policy making people has been enhanced tremendously.

BOARD OF INVESTMENTS REPORT:

House Bill 771 Presentation – With respect to House Bill 771, passed by the 2007 Legislature, Mr. Cliff Sheets and Mr. Carroll South, Board of Investments, presented the asset allocation of the TRS, the past and expected investment performance, goals and strategies, together with a comparison of the Montana TRS' investment performance with other states.

EXECUTIVE DIRECTOR'S REPORT

Technology Coordinator – Mr. Senn shared the results of a Technology coordinator survey. Mr. Senn informed the Board that this survey had been randomly mailed out to forty school districts and to date he had received twenty responses.

Mr. Senn concluded that it appeared that most schools were reporting their technology coordinators correctly, but asked if any Board members familiar with these positions wanted to review the surveys received.

Mr. Dubbs noted that this was an ever changing situation that has changed much in the last five years. Mr. Senn informed the Board that he would continue to address these positions on an individual bases and present them to the board as questions arose.

Annual Per Diem Election Form - Mr. Senn explained that each year members of the TRS Board who are also public employees (teachers and administrators) who receive both the $50 per diem while serving as a Board member and their regular salary for an overlapping period, must file a Multiple Public Employment Disclosure Form by December 15, 2007. He asked any board member needing to complete the disclosure form to contact him as soon as possible.

EXECUTIVE SUMMARY – Mr. Senn informed the Board that the Legislative Auditor's Office had completed the financial audit of the Teachers' Retirement System for fiscal

year 2007. The TRS audit contained an unqualified opinion with no recommendations and would be heard by the Legislative Audit Committee on November 28, 2007.
SAVA COMMITTEE – Mr. Senn reported that The SAVA Committee met on October 21, 2007, to hear the stakeholders opinions of what changes needed to be made to Montana's public retirement systems. The school administrators and the school board associations announced that they intended to hire an outside actuary to study the TRS and look for ways to enhance the system to allow members to receive benefits and continue working full-time.

MEA-MFT recommended the SAVA Committee support the Professional Retirement Option (PRO) for the TRS. This proposal would provide a higher multiplier (2.0%) to anyone age 55 with 30 or more years of service in the TRS. This proposal would require a 2.+% increase in the employer contribution rate. MEA-MFT also proposed an additional 1.0% to 1.5% increase in the ORP contribution rate, from 13% to 14% or 14.5% of salary, funded by a $50 Million lump sum contribution to the TRS and a corresponding reduction in the current MUS supplemental contribution rate.

On behalf of the Board, Mr. Senn recommended the committee draft legislation to create a "Money Purchase" defined benefit plan for all teachers and administrators first hired after July 1, 2009.

Since the SAVA Committee met, the administrators have held two focus group meetings to better understand the funding constraints of the TRS and the cost of benefit enhancements. The groups seem to agree that 25-year retirement has contributed to the current shortage of teachers and administrators and that they would like to find a way to allow retirees to continue to be employed in a TRS covered position and receive full retirement benefits.

Mr. Dubbs pointed out he felt this was the first meeting he had attended that the 'normal cost' started to click. Mr. Olleman did a great job of providing a couple different options and looking at different things, but brought it back to the 10.4%, or the 'normal cost,' which was what they were talking about.

Mr. Ryan stated that somehow they need to come up with a proposal that would increase the contribution from the participant as well as the public system. Mr. Dubbs responded that he felt the focus group recognized that.

LEGAL COUNSEL REPORT:

CASE UPDATES: Denise Pizzini informed the Board that in the William Colter matter, Mr. Colter court filed his appeal of the Board's determination to deny benefits. Paul Johnson, Agency Legal Services Division at the Department of Justice, has been appointed the Hearing Officer.

Merle J. Farrier – Ms. Pizzini informed the Board that Merle J. Farrier filed a third appeal to the Montana Supreme Court. The record in the case was transmitted to the

Supreme Court on October 31, 2007, and Mr. Farrier has 30 days from that date to file his brief of support of his appeal and then the TRS will have 30 days following receipt of that to file a response brief.

INDIVIDUAL PETITIONS:

Michael Laden – Mr. Laden's appeal of his retirement effective date had been tabled at the September 21, 2007, board meeting, in order to gather additional information. Mr. Senn reported that they have learned that Mr. Laden's resignation was acted upon by the School District Board of Trustees on May 10, 2007, with an effective resignation date of May 31, 2007; he was not paid for June 1, 2007, and did not perform any services after May 31, 2007. In addition, he received the full employer paid insurance premium of $393 for the months of June, July, and August.

Chairman Ryan asked for discussion on the issue.

Mr. Dubbs commented that this was truly a manipulation of the system for an extra check, regardless of this outcome. He added that it was his opinion that the Board should have some language to prevent this from happening. Mr. Dubbs added that he thought the Board really needed to have legislation that would prevent this from happening in the future.

Mr. Turcotte stated that in Mr. Laden's case, he retired because he had some health issues he needed to attend to. Mr. Dubbs responded that was why they had sick leave. He added his concern was that this opened a huge door. When looking at the last few days of a member's contract, we need to assume that there are parts of this decision that are driving at their financial gain, and the Board should not give them that loophole.

Mr. Ryan asked what it would require to implement a fix to this situation. Mr. Senn responded that it would take legislature to adopt a new policy in the determination of retirement effective dates.

Mr. Layman commented that if a resignation occurred in the last fifteen days of a school year, then the date of determination would be the last day of school. There could be some logical things in this language that could be straight forward.

Mr. Layman asked if the insurance benefits were a contributory amount. Mr. Senn answered that the figure was how much the district contributed each month. Mr. Layman asked if Mr. Laden had to match those insurance funds. Mr. Senn responded that he was not sure if there was an employee match. Mr. Dubbs pointed out that he did ask that in September and his comment was that he paid a contribution out of his pocket.

Chairman Ryan asked if there was any public comment on this issue.

Mr. Tom Bilodeau, MEA-MFT, representing Mr. Laden, addressed the Board. He stated that regarding the insurance payments, the school district paid $395 a month, and Mr. Laden was covered under a two-person enrollment policy and he believed the

premium on that was about $450 a month and Mr. Laden did pay the difference for those months in question. Mr. Bilodeau added that it was also common in most of the districts and was exclusively covered in many contracts, not in Cut Bank, that summer time employer contributions will be paid by the school district based on the prior year employment. He added, just as you earn your salary over a contract year, you also earn the associated benefits paid for by the district. That is common and he checked with Cut Bank to see if this was true in most cases where people were leaving, and they verified that this was the practice in the past.

Mr. Bilodeau reiterated that Mr. Laden had complied with a retirement date of May 31, 2007, and there were six members last year, between January and June, who retired prior to the end of the school year. In this case, Mr. Laden decided to retire the end of May, and there was nothing in the contract locally that prohibited him from doing that. Cut Bank School's contracts explicitly provided a provision allowing for prorating the pay based on the number of days completed in a contracted year. Everything Mr. Laden did was by the book, even though we may have some concerns about whether or not the practice should be modified by some future legislation.

Mr. Dubbs added that what made Mr. Laden's issue different than others was that the information from the school was not conclusive. Their letters were in conflict with each other; therefore, the Board could not make a decision based on specific information provided.

MOTION/VOTE: Mr. Turcotte moved to accept Mr. Michael Laden's retirement effective date of June 1, 2007. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

Harry Fritz – Request to Change Retirement Option:

Mr. Senn shared with the Board that when Mr. Fritz began his retirement process he was in the process of finalizing a divorce, which ended in a property settlement agreement that stipulated he would elect Option A for his retirement. However, in the meantime he had already filed his application for retirement electing Option C. Allowing him to change retroactive to his retirement effective date of June 1, 2007, will have no adverse actuarial impact on the TRS funding. Mr. Fritz has agreed to repay the benefits overpaid, and to rewrite the Family Law Order.

Ms. Pizzini clarified there will be appropriate paperwork to make clear the conditions on which this election change was allowed, so that we do not set a precedence to anyone who requests to do this in the future.

MOTION/VOTE: Mr. Dubbs moved to approve Mr. Fritz's petition to change his Option C to Option A on his application for retirement benefits retroactive to his retirement effective date of June 1, 2007, conditioned upon Mr. Fritz repaying the benefits overpaid, amending the Family Law Order, and signing the appropriate agreements to be drafted by Legal Counsel. Seconded by Mrs. Peiffer, the motion carried unanimously. Mr. Turcotte abstained because Mr. Fritz was his client.

TRS ASSIGNMENT FOR OPI POSITIONS: The Office of Public Instruction was appealing staff's determination that Middle School/At Risk Curriculum/Content Specialist positions must be members of the Teachers' Retirement System.
Mr. Senn advised the Board that he was hesitant to recommend a change in policy that would change directions without a corresponding change in statute. Mr. Senn suggested that TRS needed to work with the OPI, as the Superintendent suggested in her letter, and try to come up with something that will help resolve this problem, come back to the Board, and then go to the legislature if necessary. Through legislation the TRS could make sure this change didn't affect anyone who was currently a member of the TRS.

Kathy Bramer, Personnel Director OPI, presented to the Board the assignment of positions of the PERS and the TRS, explaining instructional coordinator positions used to be called education specialists, how jobs were classified, and pointed out that people who work in those positions work with education and educators and seldom do they work with students. The OPI changed their title to go with the needs. These positions are state employees and their pay structure compares with other state employees, and they do not compare to the teacher salary structure.

Almost all instructional coordinators, who used to be called education specialists, work in her office. Currently the OPI has 42 band 6 instructional coordinators. Of those 42 positions, 20 are PERS and 15 are TRS, 7 are vacant. Five of the seven vacant positions are curricular specialists. The OPI did not send those positions to the TRS to be assigned to a retirement system; the OPI had already decided they were PERS positions. Ms. Bramer asked that these instructional coordinator positions be classified as PERS.

Ms. Bramer reviewed with the Board the list of the many positions that teachers could apply for that would fall under the PERS. She shared that there was a lot of gray area regarding whether a position should be accountable to the TRS or the PERS, and the difficult issue comes to play when these positions require teaching skills and educational background, but still would fall under the description of instructional coordinator. People taking or applying for these positions should be able to continue to receive TRS retirement benefits, and continue to work in these other position in state government without it affecting their TRS retirement benefit. These folks are not trying to work around the system, but are people looking for a new career as a Montana state employee.

Ms. Bramer concluded that it was increasingly difficult to justify assignment of OPI staff positions to the TRS system. As state government employees, the agency staff provides support and advice to educators across Montana, but do not serve in a teaching capacity in the schools. The OPI staff spends minimal time in the classroom providing teaching or instructional services. The language in §19-20-302, MCA needs clarification as it applies to OPI positions, but particularly as it applies to the OPI Instructional Coordinators and the Curriculum/Content Specialists.

Further, Ms. Bramer stated that the assignment of these instructional curriculum positions to the TRS systems had disproportionately affected those retired educators who were most qualified to fill these positions, without it affecting their TRS retirement benefits.

Ms. Bramer asked the Board to decline the assignment of the OPI Content Specialist to the TRS system because they do not meet the standard set in the statutory language. She asked that the Board direct the TRS staff to follow the same interpretation and decline assignment of all newly vacated or created OPI instructional coordinator positions effective immediately. Ms. Bramer asked that the Board agree to work with her to draft amendatory language to clarify the TRS membership requirements as they apply to OPI positions under §19-20-302, MCA.

Mr. Senn asked Ms. Bramer how many seasonal instructional coordinators or specialist positions were assigned to the PERS and how many were assigned to the TRS. Ms. Bramer answered that most of the folks were TRS members. Those that were not retired TRS were classified as being accountable to the TRS and those that were TRS retirees were classified accountable to the PERS.

MOTION/VOTE: Mr. Scott Dubbs moved to table this appeal until the next Board meeting, allowing time to acquire more information. Seconded by Mr. Turcotte.

Mr. Layman questioned whether the Board really wanted to table this appeal.

Mr. Dubbs stated he did understand the problem that the OPI was having with this issue, and he felt it was a legitimate problem and not unreasonable that the OPI would be able to provide a position that a teacher could retire to with full benefits. Mr. Dubbs added that a possible solution might be to pay money as an incentive for them to move over to the OPI and still maintain their membership with the TRS.

Chairman Ryan asked Mr. Dubbs if he would like to amend his motion.

AMENDED MOTION/MOTION/VOTE: Mr. Scott Dubbs moved to amend his previous motion to table this appeal, but during the time of tabling Ms. Bramer and Mr. Senn meet and work together to present a proposal to resolve this issue at the next Board meeting. Seconded by Mr. Turcotte, the motion carried unanimously

OTHER BUSINESS:

2008 Meeting Dates – Mr. Senn proposed to the Board February 8, May 9, September 5, and November 12 as the four dates tentatively scheduled for the 2008 TRS Board meetings.

Mr. Ryan asked if anyone would have a problem with moving the February 8 date to February 15, and found no opposition.

MOTION/VOTE: Mr. Turcotte moved to approve February 15, May 9, September 5, and November 12 as tentative dates for the 2008 TRS Board meetings. Seconded by Mrs. Peiffer, the motion carried unanimously.

Out of State Travel – Mr. Senn asked the Board to approve out-of-state travel requests to send Bill Hallinan to the PRISM conference, April 26 -30 in Miami, FL, Tammy Rau to attend the GFOA Annual Conference, June 12-19 in Ft. Lauderdale, FL, and for Dave Senn to attend the NCTR Legislative Committee Meeting in Washington, DC.

MOTION/VOTE: Mr. Turcotte moved to approve the out of state travel requests. Seconded by Mr. Layman, the motion carried unanimously.

Personnel Report – Mr. Dubbs shared with the Board that the Personnel Committee met with Mr. Jim Kerins on November 15, 2007. They reviewed the feedback they received from Board members and staff on Mr. Senn's performance survey and went through the evaluation process. Mr. Dubbs suggested that in the future this discussion item should be listed as a closed meeting agenda item.

Mr. Dubbs shared their recommendations as committee members on how to change the tool for the 2008 appraisal and how they would use it in the future. He reviewed the changes they made for next year. Mr. Dubbs commented that the committee felt Mr. Senn had a very strong evaluation and they felt confident in what the survey said, and that they felt Mr. Senn was doing the job and his evaluation reflected that. Mr. Dubbs informed the Board they would receive a copy of Mr. Senn's evaluation.

MOTION/VOTE: Mrs. Bilden moved to accept the Personnel Committee's Report. Seconded by Mrs. Peiffer, the motion carried unanimously.

Financial Report - Mr. Dan Gaughan presented the financial report to the Board. He shared that the investment earnings was less this time of year/compared to that of last year because of the $22 million in security gains last year that we didn't have this year. Mr. Gaughan shared with the Board that the 'investment revenue paid administrative expenses' was quite a bit higher, due to contracted services which was due to Alfred doing a lot of work on our web estimator project year to date so far. The increase to the 'administrative investment expense' was caused by the extensive use of external asset managers. 'Amortization expense' showed a monthly charge on a monthly basis amortizing our software assets.

Budget Report – Mr. Gaughan stated the budget report was running close to budget.

Delinquency Agency Report – Alzada and Boyd schools have closed and are no longer active. They were current when they closed. Mr. Gaughan reported he was trying to contact Cook City, Malmborg, and Miami schools for contributions.

NCTR Annual Conference Report – Mr. Senn shared with the Board that he and Mr. Ryan attended this year's NCTR annual conference in Scottsdale Arizona. He shared

that this year's conference spent a great deal of time discussing Financial Economics, which if adopted for public plans, as promoted by some economists, would require a significant increase in contribution rates.

Mr. Ryan added that it was an excellent conference, very well presented and worth going to.

CLOSED MEETING

Chairman Ryan directed the meeting closed at 2:50 p.m. to review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

OPEN MEETING

Application for Disability Retirement Benefits – The meeting was reopened to the public at 2:56 p.m.

MOTION/VOTE: Mrs. Peiffer moved to approve the disability application for Polly A. Maynard. Seconded by Mrs. Bilden, the motion carried unanimously.

MOTION/VOTE: Mrs. Peiffer moved to approve the disability application for Charles E. Petersen. Seconded by Mr. Dubbs, the motion carried unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:10 p.m.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING

MAY 8, 2008

CALL TO ORDER

Chairman Ryan called the meeting to order at 4:41 P.M. in the Hilton Garden Inn, Treasure State Ballroom B, 2465 Grant Road, Billings, Montana.

BOARD MEMBERS PRESENT:
Tim Ryan, Chairman
Scott Dubbs
Mona Bilden
Kari Peiffer
James Turcotte
Darrell Layman

STAFF PRESENT:
David Senn, Executive Director
Tammy Rau, Deputy Executive Director

OTHERS PRESENT:
Mark Olleman, Consulting Actuary
Representative, Dennis Himmelberger
Tom Bilodeau, MEA-MFT
Charlene A. Suckow, MREA
Sandy Denesen, MEA-MFT

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda for May 8, 2008. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member James Turcotte moved that the agenda be approved. Seconded by Member Mona Bilden, the motion passed unanimously.

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items. No public comments were made.

ACTUARIAL FUNDING -The Active Member Experience Study and Recommendations for the period July 1, 2001 - July 1, 2007, were presented to the Board by Mark Olleman, Consulting Actuary. The net impact of the assumption changes recommended in this report as of the July 1, 2007 actuarial valuation would be to increase the amortization period from 28.6 years to 31.3 years, increase the normal cost rate from 10.40% to 10.87% of pay, and decrease the unfunded actuarial accrued liability funded by Teachers' Retirement

System (TRS) contributions from $758.9 million to $756.1 million. Mr. Olleman recommended that starting in 2010 the Board study all assumptions at the same time, once every four years.

MOTION/VOTE: Mr. Scott Dubbs moved to accept the actuary recommendations. Seconded by Mr. Darrell Layman, the motion passed unanimously.

2009 LEGISLATION - Mr. Senn asked the Board to identify issues they wanted to address or that should be considered during the 2009 Legislative Session. He further commented the return to work issues TRS has been dealing with will not be solved with simple solutions, therefore, he asked the Board to appoint a legislative committee to work with staff and the TRS membership over the next several months. He informed the Board the TRS is required to have legislative drafts to the Budget Office by September 15, 2008.

The one caution from Mark Olleman, Consulting Actuary, was to keep any changes in return to work simple. Actuarial calculations can become individual specific and difficult to explain or understand, resulting in different results for each retiree returning to work. Mr. Senn shared that answers might be found in what other states have done to combat the same return to work issues.

FUNDING CONCERNS - Mr. Senn walked the Board through the draft 2009 Funding Proposal regarding the working retiree's recalculation of retirement benefits, splitting TRS/PERS positions, and retirement effective dates of May/June terminations.

TRS HOUSEKEEPING -

Mr. Senn reviewed the Board's proposed housekeeping legislation, which includes changes to comply with the Pension Protection Act of 2006, allow the rollover of TRS contributions to a Roth IRA, clarify the definitions of "actuarial equivalent" and "fixed" amounts as these terms are used in a Family Law Order, define full-time service to include alternative school calendars, and clarify that teachers and administrators employed by community colleges must be members of the TRS.

OTHER PROPOSALS - The MEA-MFT will pursue the 2.0% Professional Retirement Option (PRO). Under this proposal, effective July 1, 2011, TRS members who work 20 or more years and are age 55 or older when they retire will receive a benefit based on a 2.0% multiplier instead of the normal one and two thirds multiplier. The anticipated cost of the proposal is over 2.0% of salary.

PUBLIC COMMENT - Mr. Senn asked for comments and/or recommendations regarding legislation from members of the system and the public.

Representative Dennis Himmelberger asked what type of retirement plan the TRS was looking at for new hires and what the status of that process was.

Mr. Senn responded the TRS has been involved in a number of focus group sessions and has had many discussions as well as participated in looking at different plans with constituents, the State Administration Veteran Affairs Committee, MEA-MFT, Montana School Board Association, School Administrators of Montana, and the Montana Rural Educators Administrators.

Mr. Senn worked with the School Administrators group and did some work on a plan design for them. The plan would create a new tier in the TRS for members hired after July 1, 2009. Instead of the current benefit of 25 years and out at any age, the new plan would require age 62 or a rule of 90. This means you would either have to be 62 with five years of service or the member's age plus service would have to equal 90 to be eligible for unreduced retirement benefits. The plan would be at the same equivalent cost as the current TRS plan, so there would be no change in contribution rates. It would result in a formula of about a 2% multiplier.

The other plan being considered was a Money Purchase Plan. This is an equivalent type cost plan and would calculate benefits based totally on contributions, investment earnings, and member's age. The longer the member waits to retire, the larger the benefit. For an individual hired under the current TRS plan at age 22 or someone hired under a money purchase plan at age 22, the break even point is about age 57. Under either plan, at age 57 they would receive about 58% to 59% of their final average salary. The real difference occurs at older ages. If this same person worked until age 65, under the current plan they would have a replacement ratio of about 72%. Under the money purchase plan it would be 94%.

Mr. Bilodeau, shared MEA-MFT recognized costs would roughly be 2% of payroll or approximately $13 million per year for the new PRO proposal. As part of this bill, MEA-MFT is proposing the additional cost to the plan be fully funded by the State General Fund. They are asking for a 2% formula for anyone retiring with 30 or more years of creditable service.

Mr. Dubbs noted the PRO plan of the past had also been proposed as a solution to retention.

Mr. Bilodeau agreed that MEA-MFT has tied this proposal to the issues of attraction and retention.

Chairman, Tim Ryan added it seems common practice for school districts to use the TRS in order to hire or retain retired members, which adversely impacts the actuarial funding of the retirement fund, which then impacts all the members.

The TRS needs to make changes so school districts aren't using the retirement system for retention.

ADJOURNMENT

There being no further business, the meeting was adjourned at 6:34 p.m.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING

MAY 9, 2008

CALL TO ORDER

Chairman Ryan called the meeting to order at 8:30 A.M. in the Hilton Garden Inn, Treasure State Ballroom B, 2465 Grant Road, Billings, Montana.

BOARD MEMBERS PRESENT:
Tim Ryan, Chairman
Scott Dubbs
Mona Bilden
Kari Peiffer
James Turcotte
Darrell Layman

STAFF PRESENT:
David Senn, Executive Director
Tammy Rau, Deputy Executive Director
Denise Pizzini, Legal Counsel
Bill Hallinan, Information Technology Manager - Conference Call
Dan Gaughan, Accounting Fiscal Manager - Conference Call

OTHERS PRESENT:
Tom Bilodeau, MEA-MFT
Charlene A. Suckow, MREA
Pamela Wedum
Neal Wedum

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda for May 9, 2008. Mr. Ryan requested they move the TRS 2008-2009 Budget Report before the financial statements and move Legal Counsel Report after disabilities. Seeing no other changes, he requested a motion to adopt the Agenda.

MOTION/VOTE: Mrs. Kari Peiffer moved that the agenda be approved as amended. Mrs. Mona Bilden seconded as amended, the motion passed unanimously.

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items. No public comments were made.

APPROVAL OF MINUTES - Chairman Ryan called for changes to the February 8, 2008 Board Meeting Minutes.

Mr. Scott Dubbs would like the minutes to reflect that although he was at the meeting via conference call, he did not participate during the disability discussions.

MOTION/VOTE: Mr. Darrell Layman moved the February 8, 2008 Board Meeting Minutes be approved as amended. Mrs. Mona Bilden seconded as amended, the motion passed unanimously.

LEGISLATIVE RECAP - Mr. Senn asked what participation the Board would like to see regarding a Legislative Committee. What direction do they want staff to take regarding researching retirement

systems? What areas could the Board do more to facilitate the decision to actuarially fund the system? The new TRS Legislative Committee will be looking at administrative rules, statutory changes, and housekeeping as well.

The Board discussed their position of representing the members, to keep them informed on how decisions made by the Board are made in good faith. They reiterated how important it was for members to realize it was the Boards goal to make decisions that will create positive impacts for all TRS members.

The Board further discussed the importance of well-announced meetings, sharing information in newsletters, etc., and publicly sharing items being discussed that affect the TRS. It is important to give members a reason to have confidence in the Board. The Board needs to inform members there are some good ideas out there for their benefit and impress that change can be a good thing.

Mrs. Kari Peiffer suggested a good place to create more awareness about changes being considered by the Board would be the Educators' Conference. Mr. Senn added this was a great idea, since the Board's Legislative package would be available in October. Those speaking at Montana Conference of Education Leadership (MCEL) and the Teachers' Conference could outline the TRS Legislative points.

The Board discussed the importance of getting information regarding problems confronting members. The Board should know where the problems are coming from and discuss any complaints, whether it be cost of living increases, family law orders, Roth IRAs, funding issues, hiring back retirees, or even splitting contracts. Mr. Senn pointed out the major problem here might be recruitment and retention and how to use the retirement system to address employment issues. The Board was in agreement that when the System is used to address employment issues that the legislation must include a sunset.

Chairman Ryan suggested the Board appoint a Legislative Committee. The meetings will be public, with opportunities for input, with as many meetings as the committee needed to have for constituents to participate. Board members will be notified of all conference calls and meetings.

Mr. Ryan asked Scott Dubbs and Darrell Layman if they would be willing to be on the Legislative Committee. Both accepted the position. Mr. Senn proposed, and it was accepted, to have the first Legislative Committee conference call meeting on Wednesday, May 28, 2008, at 3:00 p.m. at the TRS conference room.

EXECUTIVE DIRECTOR'S REPORT

Funding and Benefit Policy - It is policy for the TRS Board to review the Funding and Benefit Policy each year prior to Legislative session. Mr. Senn informed the Board there are no major changes in the policy, however, he has struck some of the language that was put in two years ago, to address unfunded issues that the TRS was taking to the Legislature at that point in time.

The Board discussed additional funding sufficient to amortize unfunded liabilities for 25 years.

MOTION/VOTE: Mr. James Turcotte moved to adopt the amended Funding and Benefits Policy. Seconded by Mrs. Kari Peiffer, the motion passed unanimously.

Contracted Services Agreements - Mr. Senn presented two addendum contracts for legal services. The addendum for Ice Miller would extend the original legal services contract with the TRS until July 1, 2009. It would include an IRS compliance review and request for a "Determination Letter." All other terms and services of the agreement would remain unchanged. Services for the term shall not exceed $25,000.

The second contract was for Alfred Munksgard and Associates. The retainer is $48,000 per year, plus additional charges for any enhancements made to the system; such as providing automatic emails to members, finalizing processes on automated wage and contribution, electronic funds transfer, electronic fund transfers for insurance agencies process, and/or give active and inactive members increased web access to their account.

MOTION/VOTE: Mr. Darrell Layman moved that both Contracted Services Agreements be approved. Seconded by Mr. Scott Dubbs, the motion passed unanimously.

SAVA Interim Committee Report - Mr. Senn reported The State Administration and Veterans' Affairs (SAVA) committee met on April 28, 2008, to hear retirement proposals from interested persons. The MEA-MFT presented the 2.0% Professional Retirement Option effective July 1, 2011, for any member at least age 55 with 30 or more years of service. The School Administrators have indicated that they will not have any Legislative proposals until after the November elections.

Mr. Senn summarized proposals heard at the SAVA meeting regarding The Police Officers' Association, The Association of Retired Public Employees, and the MEA-MFT. Mr. Senn added the SAVA Committee will meet again on June 30, and July 1, 2008, to hear legislative proposals from the retirement boards, and other state agencies.

Executive Summary - In April the TRS notified all employers they could now update TRS members' addresses on their monthly wage and contribution reports. If they provide the TRS with current mailing addresses in the future, we will not ask them to distribute annual statements, newsletters, and other materials to the TRS member.

OPI Request for PERS Membership - Mr. Senn asked Attorney Denise Pizzini to address questions Legal Counsel had at the last Board meeting, concerning equal protection.

Attorney Denise Pizzini expressed there are two issues regarding OPI's request to move more of their people to PERS eligibility as opposed to TRS. Their proposal initially was to set a particular point in time and only going forward for new hires at OPI. That raised issues of 'equal protection' if there were members whose current positions were substantially similarly situated in OPI who should be reported to TRS. What about people in other agencies, other educational type institutions who might have people in similar positions and would there be an 'equal protection' issue there?

Attorney Pizzini reported the Supreme Court Case Law has been very defensive of the protective Legislative features for retirement plans. The February 2008 Beam decision, which came from the Supreme Court, was related to the National Guard Fire Fighters in Great Falls. Apparently the Legislature passed a statute allowing National Guard Fire Fighters to participate in Fire Fighters' Retirement System, which had richer benefits and was favorable to fire fighters. Legislation offered participation only to new hire fire fighters and not to the existing ones. Although, the existing fire fighters working in the window of opportunity could elect to move to the new system as opposed to remaining in PERS. Thus we had two classes of individuals, those hired before the effective date of the legislation, and those hired after the effective date.

In the National Guard Fire Fighters case the only difference in their situation was their date of hire. The Supreme Court decided there was a compelling distinction between these two classes of people, since it was the intention of the Legislature that the benefits be different from this point forward in time and not necessarily reach back in time to the people previously hired.

With respect to all the employees in OPI, attorney Pizzini suggested the legislation needs to be clear that any changes apply only to a certain date going forward in time, not reaching back, and it pertained only to OPI. She added that the TRS will very likely still have to address the issue then of the 'equal protection argument' by people in other agencies. The TRS may still have to address it within OPI as well.

The Board discussed whether the TRS Board wanted to support OPI's Legislation to move all of OPI's membership to the PERS, or does the Board feel strongly this is an educational community that should be part of the TRS. Mr. Senn pointed out the equal protection issue and actuarial costs will need to be answered before the Board will get to a decision point. The Board further discussed how the term 'instructional services' was not defined in the statutes; therefore, without a clean definition it creates a loophole. Until this loophole is closed, there is too much room for people to continue to put the TRS in a position of having to take legal action to solve it.

IRS Qualification Filing - Mr. Senn informed the Board that Ice Miller is on schedule to file the request for a 'Determination Letter with the IRS, which will confirm the TRS remains a 'qualified plan.' The primary advantage of remaining a qualified plan is that our investment earnings and member benefits are not subject to taxation as they are earned. Our goal is to complete drafting of any required administrative rules and proposed legislation by September 15, 2008, and file with the IRS in October 2008.

OTHER BUSINESS

Interest Rate Credited to Member Accounts - Each May the Board is required to set the rate of interest that is credited to active member accounts and service purchase contracts. Historically, the interest rate has been set close to the Short-Term Investment Pool (STIP) rate earned by the Board of Investments. Mr. Senn informed the Board the STIP on April 30, 2008,was 2.845%, and shared it has been steadily dropping since September last year. Staff recommended the interest rate credited to member accounts for the period July 1, 2008 to June 30, 2009, be reduced from 5.0 percent to 2.0 percent.

MOTION/VOTE: Mr. Turcotte moved to adopt a 2.0% interest rate credited to member accounts. Seconded by Mr. Darrell Layman, the motion passed unanimously.

Out-of-State Travel Requests – Mr. Senn reviewed out-of-state travel requests for the Executive Director and two board members to attend the National Council on Teacher Retirement (NCTR) Annual Conference to be held in Washington, DC, October 11-17, 2008. Board members scheduled to attend this year's conference are Mona Bilden and Darrell Layman. Mr. Senn shared a list of future conferences and the Board members scheduled to attend each, together with a list of past conferences.

MOTION/VOTE: Mrs. Peiffer moved that the out of state travel be approved. Seconded by Mr. Turcotte, the motion passed unanimously.

Alternative Work Schedule Policy - Last fall the Board approved an alternative summer work schedule for June, July, and August. Mr. Senn explained the updated Alternative Work Schedule Policy included the summer schedule.

MOTION/VOTE: Mr. Layman moved to approve the Alternative Work Schedule Policy. Seconded by Mr. Dubbs, the motion passed unanimously.

Investment Report – Mr. Jim Turcotte presented the Investment Report, indicating the market appears to be heading for a period of adjustment. He referred to the end of the year, June 30, 2008, and indicated the TRS would be fortunate to break even.

The Board discussed the economic situation and the overall sense was by the end of December they would be seeing significant improvements. They also discussed the importance of STIP and how it was used in the retirement system.

TRS 2008-09 Budget - Via conference call, Mr. Dan Gaughan shared the proposed budget and justification for the fiscal year beginning July 1, 2008 through June 30, 2009. The proposed FY 2009 budget includes a $27,752 increase over FY 2008 anticipated expenditures.

MOTION/VOTE: Mrs. Bilden moved that the budget be accepted as presented. It was seconded by Mrs. Peiffer, the motion passed unanimously.

Financial Statements - Mr. Gaughan reviewed the financial statements.

Delinquent Agency & Travel Reports - Mr. Gaughan reported Rocky Boy is delinquent and he is working with them on getting their account up to date.

Next Meeting Dates: - Mrs. Peiffer asked if the September Board meeting could be changed to September 12, 2008. The Chair directed the next meeting dates be scheduled for September 12, 2008, and November 14, 2008.

DISABILITY APPLICATIONS -

CLOSED MEETING - Chairman Ryan directed the meeting be closed at 11:13 a.m. to discuss and review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

Approval of Applications for Disability Retirement Benefits

MOTION/VOTE: Mr. Turcotte moved to approve the disability application for Rebecca Alvarado. Seconded by Mr. Layman, the motion passed unanimously.

MOTION/VOTE: Mrs. Bilden moved to approve the disability application for Kathleen Fuhrman. Seconded by Mrs. Peiffer, the motion passed unanimously.

MOTION/VOTE: Mrs. Peiffer moved to approve the disability application for Darlene Cook. Seconded by Mr. Layman, the motion passed unanimously.

MOTION/VOTE: Mrs. Bilden moved to approve the disability application for Pamela Wedum. Seconded by Mr. Dubbs, the motion passed unanimously.

MOTION/VOTE: Mr. Layman moved to approve the disability application for Johnann Yarlott. Seconded by Mrs. Peiffer, the motion passed unanimously.

LEGAL COUNSEL REPORT

CLOSED MEETING - Chairman Ryan directed the meeting be closed at 12:21 p.m. for Attorney Pizzini to discuss strategies on a contested case.

OPEN MEETING – Chairman Ryan reopened the meeting to the public at 12:46 p.m.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:48 p.m.

Chairperson _____

Executive Director _____

TRS LEGISLATIVE COMMITTEE MEETING
TRS Conference Room
1500 Sixth Avenue East
Helena, Montana 59601

Wednesday, May 28, 2008

CALL TO ORDER

Mr. David Senn stepped in as facilitator and called the meeting to order at 3:00 PM, in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

MEMBERS & STAFF PRESENT:
David Senn, TRS Executive Director
Tammy Rau, TRS Deputy Executive Director
Scott Dubbs
Darrell Layman
Tim Ryan
Jim Turcotte
Rita Karnopp, Executive Assistant

GUESTS PRESENT:
Tom Bilodeau, MEA-MFT
Mark Bruno, Office of Budget and Program Planning
Eric Feaver, MEA-MFT
Janet Kelley, Director, DOA
Roxanne Minnehan, MPERA
Rod Sundsted, Commissioner of Higher Education Office
Darrell Rud, SAM

CALL TO ORDER

ADOPT AGENDA - Mr. Senn asked for additions or changes to the Agenda for May 28, 2008, TRS Legislative Committee meeting. Finding none, Mr. Senn requested a motion to adopt the Agenda.

MOTION/VOTE: Mr. Scott Dubbs moved the agenda be approved. Seconded by Mr. Darrell Layman, the motion carried unanimously.

PUBLIC COMMENT – Mr. Senn called for public comment on TRS legislative related items.

Mr. Darrell Rud, School Administrators of Montana, commented they recently did an administrative survey and discovered that more than 40% of their teachers were retiring in the next 5 years. Mr. Rud mentioned the continued awareness of challenges facing the TRS, such as the growing number of people spiking their pensions and how this would affect the TRS. Mr. Rud added the TRS Board had an obligation to provide specifics on how many people were perceived as "finding loop-holes in the system."

Mr. Rud stated; an example would be HB 63, which passed. He found it objectionable that the testimony used one Montana school administrative contract to sensationalize this issue, which added angst to the issue and caused emotion and commotion in the House of Representatives and Senate. Mr. Rud stated he would like to see the data provided, to see

the big picture and not just one person. If legislation is fixing just one situation, then 99% of members who were respecting the rules should not have to pay the price for one person's indiscretions. Mr. Rud stated he expects this Board to be accountable to represent the whole, not a single incident that the legislature felt was the 'whole'. He would like to see backup data showing abuses, spikes, etc., which are present and causing these proposals in legislature.

Mr. Rudd stated he was curious about splitting PERS and TRS positions. He indicated he would be interested to know how many people were doing this and how it would affect each system.

Mr. Senn called for other public comments on TRS legislative related items. No additional public comments were made.

PRELIMINARY DISCUSSION OF LEGISLATIVE CONCEPTS

Mr. Senn reviewed a brief history of legislative changes that related to return to work funding issues. He asked for comments from the committee and the public.

Ms. Janet Kelly, Director Department of Administration, asked how the decision of maximum compensation affected a member. Mr. Senn explained the 1/3 compensation rule. He further explained, when a retiree returned to work, benefits were recalculated as though the member had never retired.

Mr. Senn reviewed several retire-rehire scenarios and how the actuarial funding was affected. The Actuary has been asked to evaluate the affect retire-rehire has on the retirement system. Mr. Senn mentioned there are currently 160 members who were former retirees who have returned as active contributing members. Mr. Senn reviewed the splitting of positions between TRS and PERS and how drawing benefits earlier than expected and paying benefits over a longer period of time would impact the system. Another problem area was when a member terminated their contract early to receive an additional month's retirement benefit.

Mr. Rud asked how many people were affected by splitting PERS/TRS positions. Mr. Senn responded that there was no way of telling, since PERS does not report to the TRS. Without seeing each individual contract, he had no idea how legitimate the affected positions were.

Mr. Senn shared information on how other retirement systems addressed the retire-rehire issues, plus the differences between them and the current TRS system. Mr. Senn recommended any change from the current policy include a sunset clause to allow the Legislature and the Board time to asses the actuarial impact of any change on the TRS.

Mr. Dubbs commented, there are all kinds of examples of what other states are doing. The board should focus on things that are working.

Mr. Layman asked if we could request copies of any actuarial study that had been done by the systems we are studying.

Mr. Tom Bilodeau asked if we could check with Texas, Arizona & Colorado, who he believed did a study on the impact with their return to work retirees. He also wondered if return to work provisions that open opportunities for return to work would be administratively difficult to manage in Montana. He advised staying away from return to work plans with exceptions for school size, critical shortage, performance, or any other exceptions.

Mr. Turcotte stated the whole return to work premise was based upon the idea that we are having difficulties in attracting employees. The ability to attract teachers to rural areas has become a difficult challenge. Looking at return to work proposals with that aspect in mind, it's important to take into account the need for school districts to allow retirees to fill open positions.

Mr. Rud added that a serious contributing factor and an increasing issue was the challenge of getting qualified people to more limited areas. Special education and science positions are also getting hard to fill even in larger areas.

Mr. Turcotte commented these are employment issues and not retirement issues. When you use the retirement system to address what may turn out to be a short term employment problem, you need to utilize a sunset clause. He cautioned that we need to keep in mind that expanding the return to work provisions will cost the employer something, because you cannot have a return to work provision for free.

Mr. Senn noted that expanding the return to work opportunities will have an actuarial impact and we will need to find ways to fund the increased costs. What we need to do is identify the states we wish to study, find out who has completed actuarial studies and how they funded the increased cost. Mr. Senn suggested Tammy Rau, Scott Dubbs, Darrell Layman, and he could survey selected states, ask them to explain their return to work policies, any problems they have had, and how their program was funded.

Mr. Layman stated the committee should take into consideration what other states have to offer and apply their experiences to what we develop, so we do not become so regulatory we are not serving the members.

Mr. Dubbs shared his frustration with return-to-work issues that keep the Board from making a plan down the line to address the whole system. The legislative committee is truly a way to stop or solve some of the return-to-work issues. He added that we need to get to the point where the whole system design makes sense and is actuarially funded.

Mr. Layman referred the committee back to Mr. Rud's comments regarding the need to share data. He added it would be helpful if Mr. Rud joined in compiling the information needed to create a smoother transition from working to retiree.

Mr. Rud responded he does not have data, and suspects eventually salary/benefits information will be readily available on the internet. Hopefully, the data the State will have in the future might help provide data to help solve some of the retire-rehire issues.

Mr. Dubbs commented there are current design decisions that can explain why we have retire-rehire issues, such as 25 and out. Even if we find a solution for retire-rehire we have

to realize it won't solve new issues that might surface later down the road. We are not addressing the heart and soul of the plan design for teachers and administrators.

Mr. Layman added, we need to start with research and come up with workable options for return to work, using a sunset if necessary, and see what can be accomplished in the next legislature.

Mr. Dubbs commented, this is one small sliver of a much bigger problem. We need to keep in sight that we are solving only the employment issue, not the retirement issue.

REPORT ON HOUSEKEEPING PROPOSAL

Mr. Senn reviewed the Board's proposed housekeeping legislation which included changes to comply with the Pension Protection Act of 2006, allow the rollover of TRS contributions to a Roth IRA, clarify the definitions of "actuarial equivalent" and "fixed" amounts as these terms are used in a Family Law Order, and clarify that teachers and administrators employed by community colleges must be members of the TRS.

NEXT MEETING DATES

The next conference call meeting dates have been scheduled for June 24, July 11, and August 19, 2008 at 1:00-3:00PM.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:30 p.m.

Facilitator: Dan L Senn

Member: Darrell Layman

Member: S V Dubbs

TRS LEGISLATIVE COMMITTEE MEETING
TRS Conference Room
1500 Sixth Avenue East
Helena, Montana 59601

Wednesday, June 24, 2008

Return to Work Features and Options - Recommendations

CALL TO ORDER

Mr. David Senn called the meeting to order at 1:00 PM, in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

MEMBERS & STAFF PRESENT:
David Senn, TRS Executive Director
Tammy Rau, TRS Deputy Executive Director
Scott Dubbs
Darrell Layman.
Rita Karnopp, Executive Assistant

GUEST PRESENT:
Tom Bilodeau, MEA-MFT
Charlene Suckow, Retired Teachers' Association
Darrell Rud, School Administrators of Montana

ADOPT AGENDA - Mr. Senn asked for any changes or additions to the agenda. Finding none, he requested a motion to adopt the Agenda.

MOTION/VOTE: Mr. Darrell Layman moved to adopt the agenda. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

PUBLIC COMMENT: Mr. Darrell Rud, School Administrators of Montana, reiterated to the committee the discussion regarding the number of teachers leaving the work-pool and hoped there would be efforts to take into account highly quality teachers and superintendents, etc. regarding their importance to Montana.

The Committee reached consensus on the following Return to Work Strategies/Options.

1) **Break In Service** -- Current law allows a retired member who has received at least one monthly retirement benefit to return to work in a part-time TRS eligible position.

   Recommendation: No changes at this time, but left open the option to revisit this requirement at a later date.

2) **Returning to work with the same employer** – No restrictions under current law if Normal Retirement Age.

   Recommendation: Continue with current law.

3) **Limit compensation a retiree can earn and still receive monthly benefits** -- Current law limits the total compensation a retired member may earn in a part-time position to the greater of one third of their Average Final Compensation (AFC) plus annual CPI increases, or one third of the median AFC for all retirees retiring in the preceding fiscal year.

   Recommendation: Continue the current limit for retirees whose age and service do not equal 90. If the retiree's current age plus TRS service is equal to or greater than 90, they would be allowed to earn up to the greater of one half of their Average Final Compensation (AFC) plus annual CPI increases, or one half of the median AFC for all retirees retiring in the preceding fiscal year.

   Recommendation: If a retiree exceeds any of the proposed limits, future benefits should be reduced one dollar for every three (or five) dollars earned. The committee wanted to explore further the funding implications of reducing benefits for every three or five dollars before they decided on a level to recommend to the Board.

4) **Limit number of hours or days a retiree can work and still receive monthly benefits** -- Current law limits re-employment to part-time positions.

   Recommendation: Repeal requirement that retirees return to work only in a part-time capacity, i.e., less than 180 days, or less than 140 hours per month in 9 months, (retaining only an earnings limit on retirees returning to work).

5) **Employer contributions on all wages paid to a retired member returning to work** -- Currently employers do not contribute to TRS on wages paid to a retired member working part time and subject to the 1/3 earnings limit.

   Recommendation: Require employers contribute a rate equal to the combined contribution rates (17.11%) on all salary/wages/compensation paid to retired member regardless of the number of days or hours worked. This would include all wages or compensation paid to a retired member, amounts paid to an independent contractor, a temporary service contractor, or amounts paid for services performed by a retiree through a professional employer arrangement or an employee leasing arrangement.

6) **Forfeit benefits and return to active status** -- Current law allows a retired member to forfeit benefits and return to active contributing status.

   Recommendation: Continue to allow retirees to forfeit benefits and return to active member status; however, retirees returning to active status would start a second account which at the time of a subsequent retirement would be added to the benefit amount they were receiving at the time they were reinstated to active status.

7) **Calculation of benefits following return to active status** -- When a retiree returns to work, benefits are canceled and a new benefit is calculated when he/she again retires as if they never received a benefit. This re-calculation can result in a benefit increase that is often underfunded.

Recommendation: Calculate a second benefit that is added to the benefit the member was receiving at the time they returned to active status. The individual would not be allowed to change either their retirement option or beneficiary selected at the time of their first retirement.

The committee requested additional information regarding the following options for calculating the second benefit.

a) Calculate second benefit using current eligibility requirements and benefit formula, i.e., member must have returned to work at least 5 years (vested), with benefits based on the 3 highest consecutive year's salary, additional years of service earned, and a one and two thirds multiplier. If the member works less than 5 years they would receive only a refund of their contributions, plus interest.
b) Same as (a) above; however, the returning member would be required to work only 3 additional years before they would be eligible for a second benefit which would be calculated using the regular benefit formula.
c) Calculate a second benefit using a money purchase formula, with an employer match. Again, the committee debated if the retiree should be required to return to work for 3 or 5 years before they would be eligible for a second benefit.

8) **Return to work agreements with the same employer prior to termination** -- Current policy does not require any formal certification; however, current law does require an "early" retiree to have a bona fide separation of service, which means there must be a break in service and there cannot be any prearranged agreement to return to work for the same employer. In order to implement the IRS requirement for a bona fide separation from service if an early retiree returns to work for the same employer, Tax Counsel recommends the Board require members and their employer(s) sign a form certifying that there is or is not a prearranged agreement to return to work.

   Recommendation: Require employers and retiring members to complete a form certifying that there is, or is not, a prearranged agreement to return to work.

9) **Independent Contractors** – Independent Contractors are not permitted to be active members of the TRS. However, §19-20-731, MCA, states that for purposes of defining positions subject to current return to work limits, "positions eligible to participate in the retirement system" includes work performed by a retiree through a professional employer arrangement, an employee leasing arrangement, or a temporary service contract.

   Recommendation: Require employers contribute on amounts paid for work performed by a retired member as an independent contractor, a temporary service contractor, through a professional employer arrangement or an employee leasing arrangement.

   Recommendation: Continue to limit total compensation the retired member can earn through a professional employer arrangement, an employee leasing arrangement, or a temporary service contract to the earnings limits in item 3 above (current law §19-20-731, MCA.

10) Other features or design options

Recommendation: Explore options under which retirees could return to work full time in critical shortage positions, define "critical shortage".

The committee discussed previous legislation introduced by Rep. Nancy Rice-Fritz, which allowed TRS retirees who had been retired for 12 months to return to work full-time without any earnings limits, if the employer could not find anyone to accept the position. The committee asked staff to document how other states defined critical shortage positions, and also requested recommendation from Darrell Rud and Tom Bilodeau on definitions for critical shortage positions.

Recommendation: Sunset and monitor the return to work program to ensure the TRS is not adversely affected.

An alternative suggestion to minimize administrative cost/enforcement and to simplify education requirements was also made, which included eliminating all earnings and part-time work limits and to change the definition of Normal Retirement Age to age 60. The System would then require a one year break in service for retirees returning to work before Normal Retirement Age (probably reducing the number of members retiring when first eligible). Instead of a one year break in service, retired members returning to work on or after age 60 would have to meet the definition of a retired member (i.e. received at least one monthly benefit) before they could return to work. Exceptions could be made for substitute teachers, fill in for extended military deployments, maternity leave, and others working for very short periods of time.

This suggestion would also require a change in the definition of earned compensation to eliminate the different salary reporting requirements for active members and rehired retirees, (e.g. all remuneration, only Social Security applicable wages, W-2, etc.). Retiree compensation would continue to include compensation paid to an independent contractor, a temporary service contractor, through a professional employer arrangement and an employee leasing arrangement. Under these types of contracts/arrangements the employer would be required to contribute a rate equal to the combined contribution rates (17.11%) on all salary/wages/compensation paid.

Under this proposal, if a retiree wishes to suspend benefits and return to active membership, benefits would not be recalculated when the member subsequently retires again. The member would earn a second benefit based upon current eligibility requirements and benefit formula when they subsequently retire (i.e., 5 year vesting period with benefits based on the 3 highest consecutive years of salary, additional years of service earned, and a one and two thirds multiplier). If the member works less than 5 years they would receive only a refund of their contributions, plus interest.

NEXT MEETING - The next Legislative Committee Meeting will be July 30th, at 1:00 p.m. Mr. Senn suggested the Committee members also meet in-person to compile information for comment before the July 30, 2008 meeting, the date to be confirmed later.

ADJOURNMENT - There being no further business, the meeting adjourned at 3:00 p.m.

Facilitator: David Senn

Member: Darrell Layman

Member: _____

TRS LEGISLATIVE COMMITTEE MEETING
TRS Conference Room
1500 Sixth Avenue East
Helena, Montana 59601

Wednesday, July 30, 2008

CALL TO ORDER

Mr. David Senn called the meeting to order at 1:00 PM, in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

MEMBERS & STAFF PRESENT:

Scott Dubbs via phone
Darrell Layman via phone
David Senn, TRS Executive Director
Tammy Rau, TRS Deputy Executive Director
Denise Pizzini, Legal Counsel
Rita Karnopp, Executive Assistant

GUEST PRESENT:

Tom Bilodeau, MEA-MFT, arrived 1:25 p.m.
Charlene Suckow, Retired Teachers' Association, arrived 1:50 p.m.
Mark Bruno, Governor Budget Office

ADOPT AGENDA - Mr. David Senn asked for any changes or additions to the agenda. Finding none, he requested a motion to adopt the Agenda.

MOTION/VOTE: Mr. Darrell Layman moved to adopt the agenda. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

APPROVE MINUTES - Mr. Senn asked the Committee for any changes or additions to the May 28, 2008 and June 24, 2008 TRS Legislative Committee Meeting minutes before approval. Mr. Senn asked that duplicate listing of David Senn and Tammy Rau be deleted under members and staff present on the June 24, 2008 minutes. Mr. Senn asked for any further changes or additions to either committee minutes, finding none, he requested a motion to adopt the May 28, 2008 and June 24, 2008 TRS Legislative Committee Meeting minutes.

MOTION/VOTE: Mr. Dubbs moved to adopt the agenda. Seconded by Mr. Layman, the motion carried unanimously.

PRESENTATION OF COMMITTEES PRELIMINARY RECOMMENDATIONS - Mr. Senn reviewed each of the preliminary recommendations approved by the committee on June 24, 2008, together with comments received from Legal Counsel and the TRS Actuary. It was the consensus of the Committee to proceed with the recommendations they agreed to in June, with the following clarifications:

- Benefits earned in excess of the 1/3 earnings limit would be reduced $1.00 for every $5.00 earned over the 1/3 limit.
- Increase the break in service before a retiree could return to work from the first of the month following receipt of their first benefit, to 6 months.

They discussed changing the 1/3 limit to 50% of Average Final Compensation and asked the Actuary to provided more information on the possible impact of increasing the earnings limit to 50%.

They also asked for comments from the Actuary on the potential impact on the System if all retirees were allowed to return to work full-time and continue to receive benefits after a 1 year break in service. This would be similar to the alternative proposal they discussed in June but with a one year break for everyone.

Regarding the current pre and post-retirement definitions of compensation, the Committee asked if there was a single definition that would be clear enough to avoid salary spiking opportunities before retirement, and capture all remuneration under a typical post-retirement contract. The Committee asked for examples from other states, and also asked Darrell Rud and Tom Bilodeau if they had any recommendations or examples that they would like the Committee to consider.

Finally, the Committee agreed to continue the discussion on the question of exceptions for critical shortage areas at the September TRS board meeting. The idea was to create an open forum where the issues could be discussed. The Committee did not believe the Board should move forward with a proposal unless there was support from all the organizations, and the Governor's office.

Staff Report on Housekeeping Legislation - Mr. Senn reviewed the TRS 2009 Housekeeping draft proposals and asked for comments.

PUBLIC COMMENT - Mr. Senn asked for any public comments and found none.

INSTRUCTIONS TO STAFF – Request the Actuary comment on the potential funding impact if the total compensation a retired member could earn was increased to 50% of their Average Final Compensation (AFC) plus annual Consumer Price Index (CPI) increases. Report to the next committee meeting examples of definitions from other states used to define earned compensation. Schedule an open discussion at the September TRS Board Meeting regarding 'critical shortage'.

NEXT MEETING - The next Legislative Committee Meeting will be August 19, 2008, at 1:00 p.m.

ADJOURNMENT:

ADJOURNMENT - There being no further business, the meeting adjourned at 2:16 p.m.

Facilitator: _____

Member: _____

Member: _____

TRS LEGISLATIVE COMMITTEE MEETING
TRS Conference Room
1500 Sixth Avenue East
Helena, Montana 59601

Tuesday, August 19, 2008

CALL TO ORDER

Mr. David Senn called the meeting to order at 1:00 PM, in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

MEMBERS & STAFF PRESENT:
Scott Dubbs via phone
Darrell Layman via phone
David Senn, TRS Executive Director
Tammy Rau, TRS Deputy Executive Director
Rita Karnopp, Executive Assistant

GUEST PRESENT:`
Tom Bilodeau, MEA-MFT
Darrell Rud, SAM
Bob Vogel, MTSBA

ADOPT AGENDA - Mr. David Senn asked for any changes or additions to the agenda. Finding none, he requested a motion to adopt the Agenda.

MOTION/VOTE: Mr. Darrell Layman moved to adopt the agenda. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

APPROVE MINUTES - Mr. Senn asked the Committee for any changes or additions to the July 20, 2008 TRS Legislative Committee Meeting minutes before approval. Finding none, he requested a motion to adopt them.

MOTION/VOTE: Mr. Layman moved to adopt the agenda. Seconded by Mr. Dubbs, the motion carried unanimously.

PRESENTATION OF COMMITTEES PRELIMINARY RECOMMENDATIONS

2009 Funding & Retire/Rehire Draft Proposal- Mr. Senn reviewed in detail the draft proposals to actuarially fund the TRS and expand the limits on retire/rehire, as well as a draft housekeeping proposal. Final draft proposals, pending Legal Counsel's review, will be presented to the full Board on September 12, 2008.

Mr. Senn opened the floor for discussion.

Mr. Tom Bilodeau suggested adding the IRS terminology "bone fide separation from service" to the amendments in §19-20-801, MCA, included in the funding proposal.

Mr. Bilodeau and Mr. Rud suggested the amendments to §19-20-703 reference the last Pupil Instruction (PI) or Pupil Related Instruction (PRI) day instead of the last day in the school year.

Mr. Dubbs commented the Board should consider increasing the earnings limit in Section 1 of the funding proposal to one-half of the member's average final compensation (AFC), as opposed to the existing one-third limit.

Mr. Bilodeau stated MEA-MFT will not support, and will strenuously argue against the one-half instead of the one-third earnings limit.

Bob Vogel, MTSBA, commented he would strongly support the one-half earnings limit. He commented he appreciated the committee's work to address issues that would balance the needs of the various people affected. He added, another issue was the six month waiting period before returning to work at a TRS reportable position. He asked if the Board had considered a tiered plan, for those with 30 yrs of service. He added three months is a breaking point, if a member retired at the end of the school year, they go thru a summer, then if the school has no one to fill a position, but a retired member cannot fill it because of the six month period, individuals who would potentially be reemployed will be looking at other options; career changes, and move from the state, etc.

Mr. Scott Dubbs responded the part that doesn't fit with Mr. Vogel's comment is it doesn't refer to people actually retiring. A person retiring to go to work in a non TRS reportable position will not be affected by the six month waiting period. If a member retires then tries to fit back into a school position, they need to face retirement is retirement, and school positions aren't available for that six month period.

Mr. Senn pointed out that another consideration is that a longer break in service would help comply with the IRS 'bone fide break in service' requirement.

Mr. Vogel asked if the thirty-day break was the standard for retirement or would age be a better gauge for a retiree break in service before returning to a TRS reportable position.

Mr. Rud concurred, the one-half earnings limit would be a step in the right direction considering the shortage of the school administrators in Montana, giving them an incentive to take these open positions. The six month break in service seems a step back, and becomes a disincentive for retirees to find employment. He suggested they look at the status quo of three months vs six months and would like to see projections on how it would affect the retirement system. Mr. Rud added he would not support the six month break in service.

Mr. Layman stated the six month break in service might make it harder to fill TRS reportable positions without the recent retirees, but felt comfortable with this decision. Mr. Layman suggested the Committee make the recommendation so that it can be discussed at the September board meeting.

Other legislative Suggestions:

Require a one-year break in service before a retiree could return to work in a TRS eligible position with no earnings limit. Mr. Senn commented the actuary indicated removing the earnings limit could work out to be cost neutral with off-setting increase in employer contributions and the one year break in service.

Senn asked for discussion. Mr. Dubbs informed the committee he could not support the one-year break in service for fear of the impact. Mr. Vogel added he felt opening this wide open might not be the way to go either.

Exceptions for critical shortages – The committee discussed how critical shortages must be addressed and taken seriously. This will be an open discussion item at the September meeting.

Definitions of earned compensation - Mr. Senn reviewed a letter from Ice Miller regarding the two approaches to defining earned compensation: base pay approach and the W2 wages. Their conclusion was that either approach is susceptible to salary spiking. A combination of both approaches were discussed, and Mr. Senn shared examples from other states that have similar issues as the TRS.

Mr. Vogel commented years ago he pointed out that earned compensation meant one thing during employment and another for post-employment, and suggested it was worth the effort to revisit.

The committee felt this was an area that needed more data and work, and should be presented to the Board at a future meeting.

Mr. Senn asked for public comment and found none.

Instructions to staff - Clean up bill drafts and put them in draft model for presentation to Board, and prepare examples of language used by other states to address critical shortages issues.

ADJOURNMENT - There being no further business, the meeting adjourned at 2:35 p.m.

Facilitator:

Member:

Member:

TEACHERS' RETIREMENT BOARD MEETING

September 11, 2008

CALL TO ORDER

Chairman Tim Ryan called the meeting to order at 3:30 a.m., in the Teachers Retirement System Conference Room, 1500 E. 6th Ave, Helena, Montana

BOARD MEMBERS PRESENT:
Tim Ryan, Chairman
Scott Dubbs via Conference Call
James Turcotte
Darrell Layman

ABSENT
Mona Bilden
Kari Peiffer

STAFF PRESENT:
David Senn, Executive Director
Tammy Rau, Deputy Executive Director
Dan Gaughan, Accounting/Fiscal Manager
Bill Hallinan, IT Manager

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Scott Dubbs moved that the agenda be approved. Seconded by Member James Turcotte, the motion passed unanimously.

PUBLIC COMMENT – Chairman Ryan noted that no one from the public was present.

RFP FOR ACTUARIAL SERVICES -- Executive Director David Senn recommended that a Joint Request for Proposals (RFP) with PERS be issued for actuarial services. Mr. Senn explained that PERS will be issuing an RFP in February 2009 and recommended a RFP be issued jointly with PERS.

MOTION/VOTE: Mr. Dubbs moved that TRS issue an RFP for actuarial services in conjunction with PERS. Seconded by Mr. Turcotte, the motion passed unanimously.

NATIONAL INSTITUTE ON RETIREMENT SECURITY (NIRS) MEMBERSHIP

Mr. Senn recommended the Board purchase a charter membership in the National Institute on Retirement Security (NIRS). Mr. Senn described the not-for-profit organization and its intent to contribute to informed policymaking by fostering a deeper understanding of the value of retirement security to employees, employers, and the economy through national research and education programs. Membership through December 2009 will cost $1000.

MOTION/VOTE: Mr. Dubbs moved that TRS purchase a Charter Membership in the NIRS for $1000 which will be good through December 2009. Seconded by Mr. Turcotte, the motion passed unanimously.

FINANCIAL STATEMENTS, BUDGET, DELINQUENT AGENCY & TRAVEL REPORTS

Dan Gaughan, Accounting/Fiscal Manager presented the financial statements.

Balance Sheet -- Mr. Gaughan pointed out that accounts receivable were about $4 million higher due to the employer contribution rate increase that went into effect July 1, 2007. The difference also includes the increase in the ORP supplemental contribution rate. The Due from Primary Government account is the 2% supplemental that TRS receives from the General Fund to cover the contribution rate increase for school districts. Both the Optional Retirement Plan (ORP) and the General Fund supplement rate increases were effective July 1, 2007.

Mr. Turcotte questioned why the amounts in the Miscellaneous Settlements account under the Revenue category were the same for both years. Mr. Gaughan explained the amount is reimbursement for a restitution amount that TRS receives each year from a settlement in a fraud case where benefits were overpaid.

Fund Balance Statement Mr. Gaughan noted that the Fund Balance Statement shows TRS investment earnings as negative in comparison to last year.

Mr. Gaughan noted that on the Investment Sheet under Administrative Expenses the contracted services is nearly double what it was the year before. Several items make that difference because of rate increases such as those by Milliman, Alfred and Associates, and SABHRS as well as, the Department of Administration. He also explained that in 2007 TRS capitalized the work that Alfred and Associates had completed so it was recorded as an intangible asset rather than an administrative expense.

Chairman Ryan questioned a $10,000 increase in rent. Mr. Gaughan explained the rent cost went up, and that until recently, TRS was subsidized a bit and was not charged the full amount. The rent also includes utilities and grounds maintenance.

Chairman Ryan pointed out the increase in Other Expenses. Mr. Gaughan explained the increase was caused by a billing for the Statewide Cost Allocation Plan which TRS had not been billed before. There had been a problem getting the plan approved by the Federal Government and so they had been operating on an old plan that showed a credit for TRS. This is the first bill in three years. The charge was approximately $22,000 this year, and it's going to be approximately $39,000 for next year.

Mr. Turcotte asked about the depreciation category. Mr. Gaughan noted that it is about $15,000 higher and explained TRS disposed of some older equipment and the amount was the remaining depreciation on that equipment.

Budget Status Reports Mr. Gaughan explained the report covers only the first two months of this fiscal year so there is not much identified that is different from the budgeted amounts.

Chairman Ryan asked if the Other Services is going to continue to go on increasing. Mr. Gaughan explained HR and legal expenses are in there and they bill TRS on a quarterly basis so some of the payments have actually covered 3 months of expense but the report is through August 2008.

Travel Reports -- There was nothing to report.

3:50 p.m. Chairman Ryan acknowledged the arrival of Member Darrell Layman to the meeting.

GFOA CERTIFICATE: Mr. Gaughan reported TRS had once again received the GFOA Certificate of Achievement for Excellence in Financial Reporting. Mr. Gaughan commented that on TRS's first submission we had about six pages of suggestions and this year we were down to two pages. Mr. Senn pointed out that this year's comments contained no areas that were critical. Mr. Gaughan stated that this year all areas were marked as proficient.

Chairman Ryan and Board members congratulated Mr. Gaughan on receiving the GFOA Certificate again this year.

APPLICATIONS AND BENEFIT ADJUSTMENTS: Mr. Senn stated that there were 634 retirees this last fiscal year of which approximately 524 were effective in June and July. For the Year, this was about 100 more retirees than TRS had last fiscal year but yet 100 or so less than what had been expected on actuarial projections. Mr. Senn explained the process of estimating benefits when retired

members were entered into the system and then balancing the accounts as the final information was received from the employers. He stated the process usually has taken into late October or early November to complete. Mr. Senn was pleased to report that this year staff changed the process, taking out one step, and spent one week dedicated to completing the entire process. All retirees' benefits have been audited, recalculated and closed out except for a small handful of problem children.

Mr. Senn complimented the staff and credited Janet Cooper with taking the lead role in suggesting the change and making it happen.

CLOSED MEETING

Chairman Ryan directed the meeting be closed at 4:10 p.m. to review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

OPEN MEETING

Application for Disability Retirement Benefits – The meeting was reopened to the public at 4:45 p.m.

MOTION/VOTE: Mr. Turcotte moved to approve the disability application for Bernadette Horn. Seconded by Mr. Layman, the motion carried unanimously.

MOTION/VOTE: Mr. Layman moved to approve the disability application for Wendy Eley-Riener. Seconded by Mr. Turcotte, the motion carried unanimously.

MOTION/VOTE: Mr. Turcotte moved to table the disability application for Katherine Martin pending receipt of additional information. Seconded by Mr. Layman, the motion carried unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:00 p.m.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING

September 12, 2008

CALL TO ORDER

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Board of Investments Conference Room, 3rd Floor, 2401 Colonial Drive, Helena, Montana

BOARD MEMBERS PRESENT:
Tim Ryan, Chairman
Kari Peiffer, Vice Chairman
Scott Dubbs
James Turcotte
Darrell Layman
Denise Pizzini, Legal Counsel

ABSENT
Mona Bilden

STAFF PRESENT:
David L. Senn, Executive Director
Tammy Rau, Deputy Executive Director
Bill Hallinan, IT Manager

OTHERS PRESENT:
Tom Bilodeau, MEA-MFT
Charlene A. Suckow, MREA

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member James Turcotte moved that the agenda be approved. Seconded by Mr. Darrell Layman, the motion passed unanimously.

APPROVAL OF MINUTES – Chairman Ryan called for any changes to the May 8 & 9th, 2008 Board Meeting Minutes as well as the Legislative Committee Meeting of August 19, 2008.

MOTION/VOTE: Mr. Layman moved approval of the Minutes of May 8, May 9, and the Legislative Committee Meeting of August 19, 2008. Seconded by Member Scott Dubbs, the motion carried unanimously.

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items. No public comments were made.

LEGISLATIVE COMMITTEE REPORT AND PUBLIC COMMENT ON PROPOSED LEGISLATION

Funding/Return to Work Proposal - Executive Director David Senn distributed a letter to the Board from Superintendent Bruce Messinger, Helena Public Schools, regarding the Funding and Return to Work legislative proposal. Dr. Messinger objected to the proposal to increase the break in service to six months and to the additional employer contributions. Mr. Senn also shared an e-mail he received from Darrell Rud, Executive Director, School Administrators of Montana, stating he could not support the proposed changes.

In addition, Mr. Senn reported that at the August Legislative Committee meeting, Mr. Bob Vogel and Mr. Rud stated they could not support the 6 month break in service but neither mentioned any objection to the suggestion that employers contribute the combined contribution rates on all wages paid to working retirees. During the August meeting MEA-MFT stated they could not support the change to allow retirees to earn more than 1/3 of the final average salary.

Mr. Senn continued to review each section of the proposed bill draft.

Mr. Tom Bilodeau stated that MEA-MFT opposes increasing the post-retirement earning limits from 1/3 to 1/2. The only change that MEA-MFT would tend to support would be an introduction of employer contributions.

Mr. Senn recommended the Board strike Section 1 of the Bill Draft, eliminating the 6 month waiting period, the contributions on working retiree wages, and the increased post-retirement earning limits from 1/3 to 1/2. He recommended the Board add a provision to require employers contribute the normal employer contribution rate on all wages paid to retirees working part-time. Mr. Senn explained the normal employer rate would be the percentage they would have contributed on the salaries paid to any member except for the fact that they hired a retired member. Mr. Senn commented that when the Actuarial Report is completed and presented to the Board in November, we would be able to estimate if this rate increase would help offset the adverse impact of retired members returning to active membership.

Mr. Bilodeau, MEA-MFT said that first, they are not convinced that expanding the post-retirement earning limits from 1/3 to 1/2 will effectively accommodate school district needs. They believe that the marginal increase does not accomplish the stated objective. Secondly, it is good and proper that we bring in an employer contribution. Mr. Bilodeau also expressed MEA-MFT's support for their proposal to increase the multiplier to 2% for members at least age 55 with 30 or more

years of service explaining that their proposal would encourage people to stay in the profession and extend their careers.

Mr. Dubbs voiced his concern that other than Dr. Messinger's letter that there have been no discussions what so ever relating to the proposal that employers make contribute on wages paid to working retirees.

Mr. Turcotte, Mr. Senn, and Mr. Dubbs all commented that the committee received objections and criticism to the Board's proposal but no constructive input from the education community as to what they would like to see in terms of improvements to the return to work provisions.

Mr. Layman stated that it is frustrating that TRS put forth its idea after having studied 30 other states and having an open forum every time the committee met, and that no one comes forward with any suggestions. He was disappointed with the input from the various groups.

Chairman Ryan recognized that everyone is frustrated with the lack of input but is encouraged that there is recognition that the TRS cannot be the solution to the employment issues. Mr. Ryan thanked the committee and those who spent so much time doing the research. There are real issues facing education in Montana and if we do not work together those issues will not be resolved in a satisfactory manner. TRS has done all that it can do to mitigate some of these circumstances keeping in mind the fiduciary duty to the retirement trust. We need to understand each others issues so we may work together because we are all in this for the same purpose.

Mr. Dubbs acknowledged that Mr. Bilodeau and his association have been very upfront with TRS. It is obvious that we need to change how a retiree can step back into the system but now all we have left is a proposal to change how benefits are calculated when a retired member returns to active service. Mr. Dubbs stated he would like to attach this recommendation to the MEA-MFT 2.0% multiplier proposal. He believes going in with two proposals right now gives people a choice. Otherwise the Legislature will leave a good proposal on the table that we have endorsed in two previous legislative sessions that helps address a huge part of the problem.

Mr. Senn suggested the Board proceed with the recommended legislative proposal pending additional information on the cost of retired members return to active status. Mr. Senn pointed out that the deadline is to have a draft bill to the Budget Office by Monday.

MOTION/VOTE: Member Kari Peiffer moved that Section 1 of the draft bill be struck and to add a section requiring employers to pay the employer contribution rate on all wages paid to working retirees. Seconded by Mr. Turcotte, the motion passed unanimously.

Housekeeping Proposal –Mr. Senn explained the proposal was necessary to comply with the Pension Protection Act of 2006; clarifying definitions, who must be a member of the system, family law orders, and optional retirement allowances; and to requiring certification of termination of employment in compliance with the Internal Revenue Code.

Chairman Ryan questioned if we have heard anything back from OPI. Mr. Senn replied no, but he has talked with OPI and they are working on getting the Board further explanations regarding their proposal.

Mr. Senn continued to review each section of the draft proposal.

MOTION/VOTE: Mr. Turcotte moved to approve the draft Housekeeping Bill. It was seconded by Mr. Layman. Chairman Ryan asked for Public Comment, finding none, the motion passed unanimously.

Mr. Bilodeau, MEA-MFT thanked the TRS staff and Members of the Board that worked over 15 months on the return to work issues generally. Everyone did make a very good effort. On the Housekeeping Bill, Mr. Bilodeau stated there has been a lot of discussion on all of the issues with all interested parties and thinks they are solidly behind the bill and looks forward to the State Administration Committee Meeting when it is presented.

Other Legislative Proposals - Mr. Senn stated that he had invited Montana Retired Education Association, MEA-MFT, School Administrators of Montana, Montana School Boards Association, Montana Rural Educators Association (MREA) to present their proposals.

Charlene A. Suckow, on behalf of the MREA, stated that the retired teachers association would not have any legislation this session. She added the housekeeping package that was proposed is good and is acceptable to MREA.

Mr. Bilodeau, MEA-MFT presented two pieces of legislation affecting TRS. The first proposal is the 2.0% Professional Retirement Option (PRO) proposal. This is the same PRO proposal that has been introduced in previous legislative sessions. It would provide a 2% formula for those individuals age 55 or older who work 30 years or more. The proposal will include a two year delayed effective date. The cost is expected to be in excess of 2.0% of payroll or approximately $12 to $13 million per year. As previously proposed, MEA-MFT is suggesting the State General Fund pick up the full cost, rather than the County retirement levy.

Mr. Bilodeau stated the MEA-MFT second legislative proposal would increase the employer contribution paid into the Optional Retirement Plan (ORP) for university faculty enrolled in the TIAA-CREF program. This proposal is identical

to the legislation that was presented in the past legislative session that took the employer contribution from 5% to 6%.

Mr. Senn then discussed LC2222, a statewide pay schedule for teachers and specialists presented to the Education Subcommittee on September 4, 2008. Mr. Senn's concern is not with the pay schedule but that there would be an immediate windfall for teachers who work under the new schedule for 3 years and then retire. In addition the proposal has a salary spike built into it at 20 years at which time the member receives an additional 5% of salary and at 25 years when the member receives an additional 3%. The result is a shorter period in which to collect contributions and earn investment earnings required to fund that higher benefit.

On the positive side, the increase in pay would increase the contributions TRS would be collecting to pay off the unfunded liability, which would reduce the amortization period. The bill was heard by the committee but was not moved forward.

Mr. Bilodeau commented that LC2222 would establish a $40,000 starting salary indexed for inflation with a maximum salary of $80,000. The estimated cost the first year to implement the schedule would be approximately $130 million.

Critical Shortage Exceptions - Mr. Senn explained the Legislative Committee had asked that this issue be placed on the September agenda in order to have an open discussion with the organizations most interested in hiring retired TRS members. Seeing no one in attendance interested in this issue, the item was not discussed

EXECUTIVE DIRECTOR'S REPORT

Proposed Administrative Rule Changes to Comply with the Pension Protection Act of 2006 –Mr. Senn presented the proposed Administrative Rule additions and changes required to comply with the Pension Protection Act of 2006. Mr. Senn thanked Ms. Denise Pizzini for her excellent work in compiling the required federal amendments into the format required for Administrative Rules.

MOTION/VOTE: Mr. Turcotte moved to proceed with posting the Administrative Rule changes. It was seconded by Mrs. Peiffer. Chairman Ryan asked for public comment, finding none, the motion passed unanimously

Agency Legal Services – Mr. Senn reported that the Department of Administration had advised him that they are no longer able to provide adequate legal services to cover the TRS legal requirements. Mr. Senn commented that Denise Pizzini has done a great job in covering the critical issues. However, TRS requirements for legal services are increasing with a substantial amount of legal work that needs to be completed over the next several months. Mr. Senn

recommended hiring a full time in-house attorney, and increasing the budget for fiscal year 2009 by $65,000, to cover the additional salary, supplies and start-up cost of the new position.

Chairman Ryan commented that he felt it was the Board's preference to contract for legal services with a private firm. Mr. Senn replied that he has asked the Legal Review Committee about this option and was told that they would only approve a contract for outside legal counsel on a short-term basis.

MOTION/VOTE: Mr Layman moved to authorize staff to hire a full time in-house attorney and to increase the budget for Fiscal year 2009. Seconded by Mr. Dubbs, the motion passed unanimously.

Mr. Senn asked if any Board members wanted to be included in the interview process. Chairman Ryan stated that he would like to be involved.

Executive Order 35-2008 - Mr. Senn summarized Executive Order 35-2008 which asks all state agencies and boards to use technology when holding meetings to conserve energy as much as possible. Conference calls have been utilized to this end and TRS will continue to conserve energy through the use of technology as much as possible.

OPI Membership Proposal – Mr. Senn reported that he had been working with Madalyn Quinlan to clarify their request to move positions from TRS to PERS and had asked her to document what positions they have moved, why they were moved, and what had changed. Mr. Turcotte asked if TRS can require the positions remain as currently classified until the issue is resolved. Chairman Ryan questioned how long TRS should let this go on if they do not hear from OPI by November. Mr. Senn will advise Madalyn Quinlan of the Board's preference that any new hires to a position remain in the system where the position had been previously reported.

Executive Summary – Mr. Senn informed the Board that Rita Karnopp has moved onto the Department of Health and that the Executive Assistant position has been advertised with a closing date of September 11, 2008.

Mr. Senn commented that the summer work schedule was used this year worked well, with some exceptions on Mondays and Fridays when we were sometimes very short staffed. He recommended that the alternative schedule be used again next summer.

The Market Value Liabilities issue was reported on by Mr. Senn. If public systems were required to use a short-term bond rate to value unfunded liabilities, amortization periods would greatly increase. This method is not supported by the NCTR or any other organization representing public retirement plans. In addition the TRS Actuary, Mark Olleman, does not support this method.

OTHER BUSINESS

Board of Investments Report – Mr. Turcotte presented the Board of Investment Report. TRS is down 4.68%, gross, for the year end which impacted the actuarial valuation.

Next Board Meeting - The next Board Meeting has been scheduled for November 14, 2008.

Government Finance Officer Association (GFOA) Conference Report – Deputy Executive Director Tammy Rau reported on the GFOA conference that she attended and thanked the Board for allowing her to attend. Mrs. Rau attended a management & policy class that dealt with communicating with employees and the public. There is software called Camtasia that TRS is considering and Tammy felt what she had learned from the class could be applied to that software. Another class attended was a pension and benefit class that addressed the future of public sector retirement plans and inferred that the US money supply link to oil prices will ultimately create a greater credit crunch. The class suggested that future plan design should reflect longevity and should be something similar to Social Security. The budget and financial planning class that Mrs. Rau attended dealt with performance management which included a briefing on the Joint National Advisory Commissions progress. What the committee is trying to do is develop a comprehensive performance measurement framework that can be used across state agencies. Performance measurements are something that TRS should be looking at adopting in the future. She also attended a class that dealt with disaster management and resiliency which focuses on building enhanced capabilities which allows government to both respond and recover quickly to a disaster.

Mrs. Rau informed the Board that TRS management has talked about these issues and needs to start a budget and build a plan for disaster management. The importance of being able to effectively deal with a possible mass loss of life is critical. TRS also needs to have staff involved not only by having their personal data updated but reviewing their areas of work and suggesting what would be necessary or helpful in a disaster scenario.

Public Retirement Information Systems Managers (PRISM) Conference Report – IT Manager Bill Hallinan thanked the Board for the opportunity to attend the conference and reported on the conference. At the conference Mr. Hallinan attended a roundtable discussion regarding management of change in the business and IT environment. Mr. Hallinan went over several key suggestions that had been presented for achieving a comfort level for change. A presentation by Futurist David Zach gave suggestions in dealing with upcoming trends and what to look forward to. Four different retirement systems gave presentations. California PERS spoke to their experience in restructuring their organization. Ohio SERS spoke about organizational change and suggestions for facilitating

change. The Denver ERS is in the process of revising their antiquated system and spoke about their experience and gave suggestions regarding doing a risk and needs analysis for a new line of business. The City of Milwaukee ERS gave suggestions for project planning and implementation.

Mr. Hallinan presented an overview of the need for new equipment, as well as development of a disaster recovery plan. The current system is redundant and maintenance agreements are expiring. After May 2010 the current equipment will no longer be covered by maintenance. Mr. Hallinan presented a synopsis of what will be needed and the approximate costs. Mr. Hallinan reviewed the capabilities of the HP3000 which is an option he is investigating. This is a proposal for the 2010 budget but he wanted the Board to be aware of the need by advising them in advance as it is a major expenditure in terms of equipment that is needed.

LEGAL COUNSEL REPORT

CLOSED MEETING

Chairman Ryan directed the meeting be closed at 1:45 p.m. to discuss legal strategy which is protected by attorney-client privilege.

OPEN MEETING

NAPPA (National Association of Pension Plan Attorneys) Conference Report – Denise Pizzini thanked the Board for the opportunity to attend the conference. Mrs. Pizzini reported the conference was one of the best organized and legally intensive conferences she has attended and was excellent. The portion she attended on issues coming up in the Federal Legislative Session expected to see some technical corrections of the Pension Protection Act. Mrs. Pizzini did not feel that any of the proposed corrections particularly pertained to the TRS. Mrs. Pizzini stated that there was a lot of discussion and a session devoted to Market Value Liabilities, or Financial Economics. They expect to see legislation at the federal level in this area.

The session on service provider contracts discussed the very broad indemnification provisions for limited liability provisions in actuarial contacts. Actuarial firms are strictly limiting their liability to gross negligence or willful misconduct. The suggestion was that it should be an issue for the RFP and expectations for indemnification be placed in the RFP or at least ask for favored nation's status, which is a request for the best indemnification language that is given to any client. The big topic at the NAPPA conference was tax issues and the IRS involvement. There is a group in NAPPA that is working with the IRS to give them an understanding of the public plans' needs and requirements.

ELECTION OF OFFICERS

Chairman Ryan called for election of officers.

MOTION/VOTE: Mr. Dubbs moved to maintain the chair relationship with Mr. Ryan. Seconded by Mrs. Peiffer, the motion passed unanimously.

MOTION/VOTE: Mr. Layman moved to maintain the vice-chairman relationship with Mrs. Peiffer. Seconded by Mr. Turcotte, the motion passed unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:30 p.m.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING
FEBRUARY 19, 2009

CALL TO ORDER

Chairman Tim Ryan called the meeting to order at 1:52:29 PM in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:
Tim Ryan, Chair
Scott Dubbs
Darrell Layman
Kari Peiffer
James Turcotte

STAFF PRESENT:
Denise Pizzini- Chief Legal Council
Tammy Rau – Deputy Executive Director
David Senn – Executive Director

OTHERS PRESENT:
Jim Kerins-Facilitator – Communication & Management Services, LLC

ADOPT AGENDA - Chairman Tim Ryan asked for additions or changes to the Agenda for February 19, 2009. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Darrell Layman moved that the agenda be approved Seconded by Member Kari Peiffer, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS: Chairman Ryan called for public comment on Board related items. No public comments were made.

CONTINUATION OF STRATEGIC PLANNING:

Mr. Jim Kerins reviewed the goals and objectives drafted during the previous meeting and the Board made preliminary assignments of the tasks to be completed.

Mr. Jim Kerins asked if the Board had any other comments on the SWOT analysis. Mr. Kerins commented that we need to add to Threats the negative perception of the Constitution's guarantee and misperception of who foots the bill for shortfalls.

Mr. Kerins recapped that the first goal would be to develop guardrails and perimeters under Communication and Outreach objective; proactively sharing information and facts

of the Retirement system, and to address negative inaccurate information with the facts. Four objectives would be consolidated under Communication and Outreach:

- Develop outreach program and hire a communication officer
- Develop and expand communication/education initiative
- Use Technology to improve communication
- Develop and enhance collaborative relationships with affinity groups

Goal 2 would be to develop and evaluate alternatives to ensure the long-term stability of the current fund; adapt to changes in external environment; align system benefits, requirements with member, employer and system needs;

Objectives:

A. Maintain an actuarially sound qualified retirement plan
B. Support legislation that will require an interim committee to compare and contrast various options for redesigning the system for members hired after July 1, 2011, including money purchase plan design options and other alternatives and hybrid defined benefit plan options that will ensure members have a guaranteed benefit in retirement
C. Implement a new plan design effective July 1, 2011

Goal 3 would include organization developments such as Infrastructure, of the Staff, & Board Members:

Objectives:

A. Board education
B. Staff education & professional development
C. Develop and implement and agency succession plan
D. Information systems maintenance and development
E. Security disaster recovery and business resumption
F. Expand organizational goals
G. Continue with performance pay system
H. Continuing to work with our partners on joint issues

The Board agreed that the key goals and objectives they would like to address right away would be:

- Writing a position profile and hiring a Communications Officer by July 1, 2009
- Develop and expand communication education initiative
- Use technology to improve communication - request a 1-800 number
- Perimeters of liabilities of other people if Denise could have that done by the May Board meeting. ???
- New plan design - support legislation to develop a new system
- Require Board Members to attend NCTR trustee workshops
- Start a Training plan for the New board member
- Draft a succession plan

Chairman Ryan asked Mr. Kerins to work with Mr. Senn and Ms. Rau to revise and update the Goals and Objectives based on the comments of the Board and staff and report back to the Board at their May Board meeting. Chairman Ryan suggested the Board meet the afternoon of May 7, 2009 starting at 2:30 p.m. to continue development of a strategic plan. There being no objections it was so order.

ADJOURN MOTION/VOTE: Member Dubbs moved that Adjourn meeting 4:35 PM. Seconded by Member Peiffer.

Chairperson Kari Peiffer Vice Chair

Executive Director Dan Senn

TEACHERS' RETIREMENT BOARD MEETING
November 14, 2008

CALL TO ORDER

Tim Ryan called the meeting to order at 8:36:00 a.m. in the Board of Investments Conference Room, 2401 Colonial Dr., Helena, Montana.

BOARD MEMBERS PRESENT:
Mona Bilden
Scott Dubbs
Darrell Layman
Kari Peiffer
Tim Ryan
James Turcotte

ABSENT:
None

STAFF PRESENT:
Dan Gaughan
Bill Hallinan
Tammy Rau
Karla Scharf
Johnelle Sedlock
David Senn

OTHERS PRESENT:
Mark Olleman- Milliman
Marco Ferro- MEA- MFT
Charlene A. Suckow, MREA
Darrell Rud- SAM
Bob Vogel- MTSBA
Madalyn Quinlan - OPI
Tom Antonick- OPI

ADOPT AGENDA – Chairman Tim Ryan asked if there were additions or changes to the Agenda for November 14, 2008. Finding none, Chairman Ryan requested a motion to adopt the Agenda. Seconded by Member Scott Dubbs the motion passed unanimously.

APPROVAL OF SEPTEMBER 11 & 12, 2008 MINUTES – Chairman Ryan called for changes to the Board Meeting Minutes September 11 and 12, 2008.

Mr. David Senn stated that it was not clear that the motion regarding the hiring of a full-time Attorney included the recommendation to increase the Budget to cover the additional salary start up cost of $65,000.00. Member Darrell Layman stated that it was his intent to include the recommended funding amount in the motion.

MOTION/VOTE: Member Layman moved that the September 12 minutes be amended to include the budget recommendation for hiring an Attorney. Seconded by Member Dubbs the motion passed unanimously.

Member Layman moved to adopt the September 12 minutes as amended. Seconded by Member Dubbs the motion passed unanimously.

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items. No public comments were made.

ACTUARIAL VALUATION - Mr. Mark Olleman, Consulting Actuary, presented the results of the July 1, 2008 Actuarial Valuation. Mr. Olleman explained that the Actuarial Accrued Liability increased from the previous year, while investment losses of $401 million reduced the value of the actuarial assets, causing the Unfunded Actuarial Accrued Liability (UAAL) to increase. In addition, the Normal Cost was up from last year as a result of the change in the termination assumption. The termination assumption was changed to assume that fewer members will withdraw from the plan, and ultimately retire at a later date. Because it is more expensive when a member retires then when they terminate and withdraw their account, the amortization of the Normal Cost increased. The reduction in the actuarial value of assets combined with the increase in the Normal Cost, resulted in an increase in the amortization period from 28.6 years to 31.3 years.

The report showed that TRS needs to increase the employer contribution rate 0.17%, in order to amortize the UAAL over 30 years as of June 30, 2008. The longer TRS waits to increase the contribution rate the higher the cost will be to amortize the UAAL.

MOTION/VOTE: Member James Turcotte moved to accept the 2008 Actuarial Valuation. Seconded by Member Kari Peiffer, motion passed unanimously

BOARD OF INVESTMENTS

Mr. Cliff Sheets, CIO, Board of Investments (BOI), presented the official report for the fiscal year 2008. Mr. Sheets explained that the allocation to equities has declined due to the public market. In the future the BOI plans to move some money from the retirement bond pools to outside core plus managers to give the pension plans a little more diversification with the goal of higher return potential. The BOI hired 4 external fixed income mangers, 2 are core plus managers using traditional US bonds, international bonds, and non-index bonds (high yield bonds) with an objective to get more diversification within the traditional fixed income pool which has been

managed internally which did not have an allocation to the low investment grades. Overall summary, the market is bleak and we are in a recession.

EXECUTIVE DIRECTOR'S REPORT –

Mr. Senn briefly reviewed the Board's housekeeping proposal LC 262, and the funding proposal, LC 263. Mr. Senn advised the Board that the Heroes Earnings Assistance & Relief Act (HEART), requires qualified pension plans to pay survivor benefits that would normally be payable to the designated beneficiary if the death occurred while a TRS member is performing qualified military service (as defined in chapter 43 of title 38, United State Code), to the extent required by § 401(a)(37) of the Internal Revenue Code. Designated beneficiaries would be entitled to any benefits that the system would provide if the member had resumed employment and then died, that are contingent on the member's death while employed. Mr. Senn recommended this mandatory provision of the HEART Act be added to LC 262.

Mr. Senn reviewed the optional provision of the HEART Act regarding disabilities occurring while a member is performing qualified military service. Mr. Senn explained that this provision has the potential to slightly increase the System's liabilities, and asked if the Board wanted to include it at this time.

MOTION/VOTE: Member Dubbs moved to include the disability provision in the housekeeping proposal. It was seconded by member Mona Bilden. Tim Ryan asked for Public comment there was none, the motion failed unanimously.

MOTION/VOTE: Member James Turcotte moved to include the mandatory requirement of the Heart Act regarding deaths occurring while a member was performing qualified military service. Motion seconded by Member Layman.

Member Kari Peiffer questioned if this amendment would apply retroactive to January 1, 2007. Mr. Senn responded yes, the Act requires that the amendment be made retroactive to January 1, 2007, but that we were not aware of any deaths that had occurred since 2007 while a member was performing qualified military service. Chairman Ryan asked if there was any public comment on the motion, seeing none, motion passed unanimously.

Mr. Senn reviewed three sections LC 263, the TRS funding proposal. (1) Change the calculation of benefits when a retiree comes out of retirement and returns to active service and then subsequently retires again. (2) Clarify that the retirement effective date for members who terminate within 30 days of the end of the school year would be the first of the month following the last PR or PIR day. (3) Require employer contributions of 9.85% on all wages paid to retirees who return to part-time employment pursuant to §19-20-731, MCA.

Chairman Ryan asked if there were any questions from the public or Board Member on the TRS legislative proposal.

Mr. Senn reviewed several other legislative bill drafts that had been requested by Legislators, including two proposals submitted at the request of MEA-MFT. The MEA-MFT proposals

included LC 107 which would increase the employer contribution rate paid to the University Optional Retirement Plan by 1%. This proposal will be funded with state general fund revenues and would cost approximately $1.8 million per year. LC 108 is the proposal to increase the TRS multiplier from 1.667% to 2.0% for members retiring with 30 or more years of service and who are at least age 55. This proposal is known as the Professional Retirement Option (PRO), and is expected to cost in excess of $20 million per year when the contribution rate increase is fully phased in.

Member Layman asked how much the PRO would increase unfunded liabilities, and if the 1.0% increase in the Optional Retirement Plan contribution will impact TRS. Member Mona Bilden asked if the proposals included the required funding? Mr. Senn responded that both proposals included the required funding and that when the Actuary completed his study of the PRO proposal his report would include the estimated increase in the unfunded liabilities.

Member Dubbs stated that he believed the 25 year and out issue was a huge hole that needed to be filled in our system, and that it needs to be addressed either through the PRO or in some other form. As Montana salaries lag near the bottom, neighboring states like Washington and Wyoming salaries are at the top. The PRO would encourage members to work longer before they retire from Montana and then go to another system and live. If we don't find a way to cover the hole soon, our liabilities are going to be much bigger to address later.

PUBLIC COMMENT Mark Ferro, MEA-MFT responded that knowing what the current 25 year provision has done to the TRS, this bill is in our estimation the best way to address the 25 year and out issues. It is with more of a carrot than a stick. We know that there is money involved, this is a perennial bill for us, and we would appreciate any partnership that you might provide us on behalf of this bill.

Bob Vogel with the Montana School Boards Association: The School Boards Association supports the PRO, they see this proposal as part of the solution to their current recruitment and retention problems and to the questions raised about the TRS 25 year and out provision. Mr. Vogel thanked the Board for allowing Mr. Senn to be at the table with them for the last number of months, last couple of years in fact, trying to get our hands around these issues.

Darrel Rud- School Administrators of Montana: The School Administrations also support the PRO proposal. Mr. Rud explained that he is a retired school administrator, and now works in the non-profit sector. He also thanked the Board and staff for their continued work in this area.

ANNUAL PER DIEM ELECTION: Mr. Senn discussed the forms that the Board members have to file regarding their election to receive the $50.00 pre-diem, if they are on a paid leave from the district.

ACTUARIAL REQUEST FOR PROPOSAL (RFP) Mr. Senn reviewed the process of issuing a state RFP and asked if any Board Members wanted to volunteer to serve on the evaluation committee. Chairman Ryan said he would serve on the Committee. Member Dubbs said that he may also be able to help.

EXECUTIVE SUMMARY- Mr. Senn reported that the Legislative Auditor's Office was in the final stages of completing their audit of the TRS financial statements and are expected to issue two recommendations. First, the Board seek actuary funding, and second that the Board adopt an internal control policy.

Mr. Senn advised the Board that Mr. Vogel from SBA asked if the TRS could identify the math and science teachers that will be eligible for retirement in the next few years. Mr. Senn suggested the Board use data collected by OPI though the Annual Data Collection reports to provide this information for all occupations; not just the math and science. Seeing no objections or concerns from the Board, the Chairman stated that it was the consensus of the Board that staff should work with SBA to produce the reports as discussed.

OTHER BUSINESS:

NEXT MEETING DATES: Mr. Senn asked if the Board wanted to consider alternative dates for the meetings in May and September since these dates seem to run into the most conflicts with school activities.

MOTION/VOTE: Member Layman moved that the 2009 meeting dates be February 20, May 8, September 11, and November 13. It was seconded by Member Peiffer. Chairman Ryan asked for any further discussion or any public comment. Seeing none, the motion passed unanimously.

OUT OF STATE TRAVEL: Mr. Senn presented out-of-state travel requests for Mr. Senn to attend the NCTR Legislative Committee January 22-28, in Washington D.C., and for Mrs. Rau to attend the Governmental Financial Officers Association meeting June 27 through July 2, 2009, in Seattle, Washington.

MOTION/VOTE: Member Scott Dubbs moved to approve Out of State Travel for Mr Senn and Mrs. Rau. Motion seconded by Member Bilden. Chairman Ryan asked for any further discussion or any public comment. Seeing none, the motion passed unanimously.

PERSONNEL COMMITTEE REPORT: Board Members Dubbs, Layman, and Turcotte met with Jim Kerins to complete Mr. Senn's performance evaluation. Mr. Dubbs reported that the Committee gave Mr. Senn mostly outstanding ratings, as our Executive Director he is doing a great job in every aspect. He also thanked Mr. Kerins for assisting with the evaluation process.

MOTION/VOTE: Member Kari Peiffer moved to accept the committee's report on the evaluation of the Executive Director. It was seconded by Member Mona Bilden, the motion passed unanimously.

DISCRETIONARY PAY ADJUSTMENT: Mr. Senn explained that HB13 from the 2007 Session authorized agencies to make discretionary pay adjustments in each year of the biennium based upon, but not limited to, market progression, job performance, or employee competency. In September 2007 the Board approved using the 0.06% increase in 2009 to bring staff below market up to their target market ratio. The motion made by the Board in 2007 was based upon

the 2006 salary survey market salaries adopted by the Board. The Department of Administration has advised that HB 13 limited market salaries to those approved by the Department. Because the Department's market salaries are not based on a survey of public pension plans and they are using older data, their market salaries are lower than those approved by the Board. Therefore, staff recommended that the Board follow the lead of the Director of the Department of Administration, and "based on the current state of our economy and the rising costs of so many day-to-day essentials" that all staff salaries be increased by 0.6%.

MOTION/VOTE: Member Mona Bilden moved to adopt staff's recommendation. It was seconded by Member Kari Peiffer, the motion passed unanimously.

FINANCIAL STATEMENTS: Mr. Dan Gaughan presented the financial statements, budget, and delinquent agency reports for the Teachers' Retirement System and answered questions.

OFFICE OF PUBLIC INSTRUCTION (OPI): Madalyn Quinlan Chief of Staff at the Office of Public Instruction (OPI) and Tom Antonick Human Resource Manager for OPI were present to address the assignments of OPI positions to PERS and TRS. Ms. Quinlan explained that OPI has a request to the Board to support changing or assigning that all OPI positions to PERS. Ms Quinlan referenced a letter sent to Mr. Senn, regarding an issue that there is a perception that a person can come to OPI and they can choose a retirement system, and that is not true. OPI has a policy where before we hire for that position, we determine whether it is going to be assigned to PERS or TRS. We have positions that we put under the PERS because they are not in a position that provides instructional services to students or evaluates teachers. Those positions that were currently in a TRS position we have left those positions in TRS, if a new hire is assigned to TRS they are reported to TRS.

Ms. Quinlan stated there are over 300 employees currently employed in OPI, 30 of these positions are being reported to TRS, and that OPI would like the support of the Board in seeking legislation to assign all OPI positions to PERS.

Mr. Senn responded that the Board would need to work with our actuary to estimate the cost of moving all positions to PERS and how this would impact funding benefits for those OPI members that remain in TRS or those receiving retirement benefits.

Member Layman asked if this change would result in TRS recruiting members for OPI, for example, if word gets around that one can retire in TRS and go to work for OPI. Member Peiffer responded that if we let one agency do it then we're opening the door for everyone else. Member Layman commented the Board needs to get more information on the positions affected to better understand the situation and that any change should not be funded by the TRS and must be actuarially funded.

MOTION/VOTE: Member Turcotte moved to not support the wholesale movement of OPI employees to PERS and that the Board work with OPI to more clearly define which positions are required to be covered under TRS. Motion was seconded by Member Layman. The Chairman called for public comment, seeing none, the motion passed unanimously.

UPDATE ON IT STATUS- Mr. Bill Hallinan reported that he has been exploring options to meet the future hardware and software needs of TRS. Mr. Hallinan gave the Board the example of how the TRS IT system went down for three days and that it took two days for the parts to come in. One option is to use the State's Destruction Service to host our operations. The cost for this service is $60,000 per year; which is 3 times our normal cost. Chairman Ryan asked if the cost would come down if there were more users. Mr. Hallinan responded that it could, and that at that time it might be more cost effective for TRS to use the State services.

NCTR- Annual conference report: Mr. Senn and Member Layman reported on the 2008 NCTR conference held in Washington D.C.

STRATEGIC PLANNING SESSION

Member Layman suggested that the Board meet for a special strategic planning session to discuss more in depth on the following issues:

1) Assigned positions to TRS and PERS
2) Legal issues
3) 25 year retirement issue
4) Plan design

Mr. Senn suggested that the board schedule the session as soon as possible and that they hire Jim Kerins to lead and assist with the planning session. Tentative meeting dates were set for December 14, & 15. 2008.

LEGAL COUNSEL REPORT:

CLOSED MEETING

Chairman Ryan directed the meeting be closed at 3:27:07 p.m. to discuss legal strategy which is protected by attorney-client privilege.

OPEN MEETING

Ms. Pizzini reported on several questions that had recently come up regarding membership eligibility and re-employment of retirees. The Chair directed that time be scheduled on the February 2009 agenda for further review of the circumstances surrounding the re-employment of the retired school principal by the Frontier School District.

APPLICATIONS FOR DISABILITY RETIREMENT

CLOSED MEETING

Chairman Ryan directed the meeting be closed at 3:27:33 p.m. to review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

OPEN MEETING

Application for Disability Retirement Benefits – The meeting was reopened to the public at 3:50:22 p.m.

MOTION/VOTE: Member Dubbs moved that Carol A. Beyer's disability application be approved. Seconded by Member Turcotte the motion passed unanimously.

MOTION/VOTE: Member Bilden moved that Kristal R. Rootes's disability application be approved. Seconded by Member Layman the motion passed unanimously.

MOTION/VOTE: Member Turcotte moved that Linda K. Borntrager's disability application be tabled pending additional medical documentation. Seconded by Member Layman the motion passed unanimously.

MOTION/VOTE: Member Peiffer moved that Katherine H. Martin have an independent medical evaluation. Seconded by Member Bilden the motion passed unanimously.

ADJOURNMENT

MOTION/VOTE: Member Layman moved that the meeting be adjourned.

There being no further business, the meeting was adjourned at 4:07 p.m.

Vice Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING
FEBRUARY 20, 2009

CALL TO ORDER

Chairman Tim Ryan called the meeting to order 8:30 AM in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:
Tim Ryan, Chairman
Scott Dubbs
Darrell Layman
Kari Peiffer
James Turcotte

STAFF PRESENT:
Janet Cooper – Benefits Officer
Bill Hallinan – IT Manager
Denise Pizzini – Chief Legal Council
Tammy Rau – Deputy Executive Director
Johnelle Sedlock – Benefits Officer
David Senn – Executive Director

OTHERS PRESENT:
Tom Bilodeau – MEA-MFT
Elizabeth Karen Kaleva – Legal Council for Wes Young

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda for February 20, 2009. Finding none, Chairman Tim Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Kari Peiffer moved to adopt the agenda. Seconded by Member Darrell Layman, the motion passed unanimously.

APPROVAL OF MINUTES - Chairman Ryan called for changes to the November 14, 2008, Board Meeting Minutes.

Ms. Tammy Rau commented that on Page five under the Office of Public Instruction paragraph the grammatical error the word "weather" needs to be changed to "whether" and it needs to read "that position determines whether it is".

MOTION/VOTE: Chairman Ryan moved to correct the word weather to whether and add the word determines into the paragraph and adopt the minutes as amended. Seconded by Member Mr. Scott Dubbs, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS:

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items. No public comment made.

ADMINSTRATIVE BUSINESS:

Out of State Travel Authorization – NAPPA & PRISM Conferences:
Mr. David Senn presented out-of-state travel requests for Ms. Denise Pizzini to attend the 2009 National Association of Public Pension Attorney (NAPPA) conference June 23-26, 2009, in Portland OR, and for Mr. Bill Hallinan to attend the 2009 Public Retirement Information Systems Management (PRISM) annual conference April 26-29, 2009, in Portland OR.

MOTION/VOTE: Member Layman moved to approve the out of state travel requests for Ms. Pizzini and Mr. Hallinan. Seconded by Member Peiffer, the motion passed unanimously.

Office Space:
Mr. Senn recommended remodeling an office space located in the basement to divide a larger room into two offices. The estimated cost was approximately $18,000.00. Mr. Senn suggested an alternative option would be to remodel the meeting room next to his office.

MOTION/VOTE: Member Peiffer moved to approve the remodel of the office in the basement into two separate offices. Seconded by Member Dubbs, the motion passed, 3 to 2.

Chairman Ryan suggested that the Board may want to have a contractor evaluate the current office space situation; meet with the staff, and draw up a design that would best use the office space available to accommodate our present staff and the Communication Officer position.

Investment Report:
Member James Turcotte commented it is very difficult to make money in this market. Some managers expect fixed income to return 4% over the next year, with 8% in equity which will not meet the actuarial assumption of 7.75%. The Bond managers expect Bonds are going to be the place to be, because of the big discounts.

Financial Statements, Budget, Delinquent Agency, and Travel Reports:
Ms. Rau reviewed for the Board the Financial Statements, budget, Delinquent agency, and travel reports. Chairman Ryan asked for further explanation of the amount expended to date for contract service. Ms. Rau explained that contracted services included actuarial services and that the number of legislative proposals has driven up the cost.

IT Status Update:
Mr. Hallinan reported that a year from now the support and warranty will run out on 4 of 6 of our servers and gave a brief update on his research to replace the servers. The cost estimate for two boxes, one box would replace all 6 of our servers and all our computers in the office and the second box would be used for back up as necessary, would be housed at the Miles City data center, the estimated cost is $150,000. More definite costs would be available by the May board meeting

Internal Control Policy:
Mr. Senn reviewed a draft internal control policy compiled by Mr. Gaughan. In the TRS audit for fiscal year 2008 the Legislative Auditor recommended that the Board adopt an Internal control Policy. The Auditors found the TRS had good internal controls; they were concerned the Board had not adopted a policy documenting procedures to monitor and test internal controls in accordance with state policy. The final policy will be presented to the Board for formal approval at the May board meeting. Mr. Senn asked if the Board had any comments or questions regarding the draft policy.

Chairman Ryan called for any comments from the Board on related items. No Board comments were made.

Next Meeting Dates:
Member Layman reported that he had a conflict with the September 11 and asked if this date could be changed. Chairman Mr. Ryan suggested the May meeting be scheduled for the afternoon of May 7 for the purpose of continuing to work on the strategic plan and the regular meeting be held on May 8, 2009, and the September meeting be moved to September 18, 2009. Mr. Dubbs suggested starting the May 7th meeting at 2:30 pm. There being no objection, it was so ordered.

DISABILITY APPLICATIONS -

CLOSED MEETING - Chairman Ryan directed the meeting be closed at 9:20 a.m. to discuss and review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

OPEN MEETING: DISABILITY APPLICATION BENEFITS

Approval of Applications for Disability Retirement Benefits

MOTION/VOTE: Member Turcotte moved for approval of Katherine H. Martin disability. Seconded by Member Peiffer, the motion passed unanimously.

MOTION/VOTE: Member Peiffer moved for approval of Phyllis A. Massar disability. Seconded by Member Dubbs, the motion passed unanimously.

MOTION/VOTE: Member Peiffer moved for approval of Gwen E. Bolstad disability. Seconded by Member Dubbs, the motion passed unanimously.

MOTION/VOTE: Member Turcotte moved for approval of Suzanne H. Donnelly disability. Seconded by Member Layman, the motion passed unanimously.

MOTION/VOTE: Member Dubbs moved for approval of Laura C. Kessner disability. Seconded by Member Peiffer, the motion passed unanimously.

MOTION/VOTE: Member Peiffer moved for approval of Sarita L. Kuhn disability. Seconded by Member Turcotte, the motion passed unanimously.

MOTION/VOTE: Member Layman moved for approval of Deva M. Trebas disability. Seconded by Member Turcotte, the motion passed unanimously.

MOTION/VOTE: Member Dubbs moved the disapproval for Renae L. Dorward disability. Seconded by Member Turcotte, the motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT:

Bonus Payments that are a Part of a Series of Annual Payments:

The statutory definition of Earned Compensation, §19-20-101(6)(e)(iii), MCA excludes incentives or bonus payments paid to a member that are not part of a "series of annual payments". The Rau School District and MEA-MFT asked the Board for guidance on the type of bonus payments or incentives that would be considered part of a series of annual payments. Mr. Bilodeau explained the Rau School District, through collective bargaining, uses 25 percent of the total Gas and Oil revenues they receive each year to pay a bonus to each teacher based on the number of years of service they have in the District.

Mr. Senn commented that staff questioned if these types of payments constituted a series of annual payments, because the amounts were dependent on available oil and gas revenues and because the payments were based on years of service with the District, thus leading to the larger payments being made to those most likely to retire in the near future.

Chairman Ryan asked if we know the amount of money that is available, is it a significant amount?

Mr. Senn and Mr. Tom Bilodeau reported they have been working on this question, and we believe in 2007 it was around $4,000.00 paid to each teacher with 20 or more years with the District.

Mr. Bilodeau stated that it is the position of the District and MEA-MFT that the bonus is part of a series of annual payments. It was the intent of the parties when bargaining to use a share of total oil and gas revenues to pay bonuses to all bargaining unit members such that they would have an ongoing calculable dollar amount that would fluctuate according to revenue received. Mr. Bilodeau suggested that the staff and Board work to draft proposed rules and examples of how this would work in a broad range.

Member Turcotte asked how many other schools have this same issue. Mr. Bilodeau responded that there are about 80 oil and gas revenue districts. Members Turcotte and Peiffer commented that what if the money no longer exists and what is this going to do to their base salaries.

Member Turcotte commented that maybe the payments should be treated like a profit sharing plan and not reported to TRS.

Chairman Ryan agreed that what needs to be done is a discussion of draft administrative rules at the May Board meeting. Member Layman suggested the rules cover all bonuses regardless of the funding source, not just the oil and gas, but the coal, and windmills.

MOTION/VOTE: Chairman Ryan moved to study the bonus issues and draft administrative rules for the May board meeting. Seconded by Member Layman, the motion passed unanimously.

2009 Legislation:

Mr. Senn reviewed the retirement and general government bills he was following for the 2009 Legislation.

Ms Pizzini commented several bills had been introduced this session to address concerns Legislators had with the rule making process. Some of the bills would be more onerous to comply with than others, but she did not believe the bills that appeared to be moving forward were particularly problematic.

CHIEF LEGAL COUNSEL REPORT:

Report on Frazer School District's Post-Retirement Contract:

Mr. Mavencamp joined the meeting via telephone conference at 11:05 a. m. Ms. Pizzini introduced herself as Chief Legal Council for the TRS and informed Mr. Mavencamp she would be leading this portion of the board meeting. Mr. Mavencamp requested that the board meeting be closed.

Ms. Pizzini advised Mr. Mavencamp that a closed meeting could not happen unless the Board Chair made a determination that Mr. Mavencamp's privacy interest out weighs the publics right to know and recommended the Chairman close the meeting to give Mr. Mavencamp an opportunity to explain his personal privacy interest.

CLOSED MEETING:

OPEN MEETING:

Ms. Pizzini informed Mr. Mavencamp he must submit a written request to the Board requesting a closed meeting and that the letter must include a description of his privacy interest justifying why the meeting should be closed. Mr. Mavencamp was informed of his right to have Legal Council, or other representation present at the meeting. Mr. Mavencamp agreed to provide the Board with a written statement of his reasons for his request for a closed meeting.

Chairman Ryan directed that the issue be rescheduled for the next May 2009 Board meeting and listed as an action item on the agenda.

Executive Summary:

Mr. Senn reported the application for Actuarial RPF was almost completed. Mr. Senn asked the Board when they would like to schedule interviews with potential Actuaries. Following a brief discussion, it was agreed to schedule the interviews for mid June.

Mr. Senn and Ms. Rau reported the National Institute of Retirement on Security (NIRS) recently released a report on Pensionomics measuring the economic impact of state and local pension plans. For fiscal year 2005-06 each benefit dollar paid by state and local pension plans supported $2.36 in total economic activity. Each dollar invested by taxpayers supported $11.45 in total economic activity.

Ms. Pizzini and Mr. Senn will be participating in a Family Law CLE for Montana Attorneys in Billings on March 20, 2009, to present information regarding requirements for family law orders submitted to TRS.

Mr. Senn reported that in 2006 the Congress passed legislation which will require all employers to withhold 3.0% of payments made for goods and services beginning in 2011, as a federal income tax withholding. On behalf of the Board, Mr. Senn wrote Senator Baucus asking the Senator to support an amendment to exempt State and Local governments from the withholding requirement. However, the Senate passed the American Recovery and Reinvestment act before the amendment could be acted on. .

In late February 2009, the Internal Revenue Service (IRS) released the Pilot Governmental Plan Questionnaire to 25 governmental plans. Based on the results of this pilot, and feedback from the governmental plan community on the form itself, the

IRS intends to revise the questionnaire and survey an additional 200-250 plans later this year, followed by a public report based on their findings.

Chief Legal Counsel Report:

Calculation of Benefits – Merle Farrier:
Ms Pizzini advised the Board Mr. Merle Farrier was unable to attend the meeting today and requested he be rescheduled for the May 8, 2009, meeting.

Ms. Pizzini briefly reviewed the pending issue before the board stating that at the May meeting we expected Mr. Farrier to clearly define his settlement offer or methodology for paying the amount owed the TRS.

Other Cases:
Ms. Pizzini advised the Board the Bowman case is in district court in Helena on a petition for declaratory judgment action to determine which of two persons, his widow or his former spouse is the appropriate beneficiary. A hearing is scheduled for September 8, 2009.

Mr. Ronald Fuller continues to be employed by the Department of Corrections in a position reportable to TRS. We recently provided him with estimates of benefits and actuarial reduction that would be necessary to recover the benefits he received in error.

Ms. Pizzini suggested to the Board that she working on drafting administrative rules and/or proposed legislation that puts some of the repayment obligation on the employers who are responsible for erroneously paid benefits caused by improper reporting of employee wages.

LUNCH:

Frontier School District – Re-employment of Retired Principal:
Mr. Wesley Young could not be present and was represented by Legal Counsel Elizabeth Karen Kaleva. Ms. Kaleva does not represent the school district in this matter.

Mr. Young retired as the Principal of Frontier in June 2008 and was subsequently rehired by the district as a part-time Dean of Students; part-time Maintenance Director, and part-time Transportation Supervisor. In November the Board requested additional information regarding the reemployment of the former Principal into the three positions and that Mr. Young and Counsel be invited to attend the February meeting. Ms. Pizzini provided a brief summary of the facts as staff understood them and thanked Ms. Kaleva for providing copies of the job descriptions and supporting documentation.

Member Peiffer asked if there is a principal at school presently. Ms. Kaleva responded that there is a part-time Superintendent and part-time Principal currently filled by Christine Eggars, it is based on the student enrollment, and they can't afford two full-time positions. Member Dubbs asked if there were two full time positions last year. Ms. Kaleva responded yes. Member Dubbs asked how many buses are there. Ms. Kaleva responded that they have 4 buses. Chairman Ryan asked what Mr. Young made as a full time principal. Ms. Pizzini responded he made around $56,000.00 per year. Mr. Senn asked how long had Mr. Young been a Principal at Frontier school. Ms. Kaleva responded that it was his first year back and previously he was a Superintendent at Charlo, and prior to Charlo, he was Superintendent at Frontier school.

Member Layman commented that Mr. Young retired; the Superintendent and Principal positions go to half time, due to reduction of enrollment, the Board creates the Dean of Students position, and Mr. Young retires and is rehired for all three positions. Mr. Senn responded the school Board had the Dean of Students position created as early as February 2008. Member Layman asked when the other two positions were created. Ms. Kaleva responded that those positions were created in June 2008.

Member Peiffer asked what the salaries are for the Maintenance and Transportation Supervisor. Ms. Kaleva responded that both those positions are $16, 000.00 a year for each. Member Peiffer commented that they didn't have the money to keep him hired as a full time administrator, but created three 1/3 time positions and hired him that basically equate to the $56,000.00 ($53,000.00), and they can use the retirement to supplement his income. Ms. Kaleva said no, that because of declining enrollment they didn't need two full time administrators.

Member Layman asked if Mr. Young keeps track of the hours that he performs in each of his 3 positions. Ms. Kaleva said he documents all his hours while performing each of the different tasks.

Mr. Senn suggested that if the Board feels inclined to take action on this issue, that they schedule an actionable item in May, and invite Ms. Kaleva and Mr. Young to discuss this with the Board at that time.

Chairman Ryan directed that the issue be scheduled for the May board meeting as an actionable item. Mr. Senn suggested staff work with Mr. Young and Ms. Kaleva to make sure the information is complete and accurate.

EDUCATION CO-OPS;
Mr. Senn and Ms. Pizzini advised the Board they are working on the question of TRS membership eligibility for certain employees of Education Cooperatives, and depending on what we learn, there may be a need for additional administrative rules and/or legislation.

MOTION/VOTE: Member Peiffer moved to adjourn the meeting. Seconded by Member Turcotte, the motion passed unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:48 p.m.

Chairperson Kari Pfeiffer Vice Chair

Executive Director Dale Lamm

TEACHERS' RETIREMENT BOARD MEETING
May 7, 2009

CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at 2:31 PM in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:
Tim Ryan - Chairman
Jeff Greenfield – New Board Member
Darrell Layman – Board Member
James Turcotte – Board Member

ABSENT:
Scott Dubbs- Board Member
Kari Peiffer – Board Member

STAFF PRESENT:
Natalie Chamberlain – Retired Benefits Specialist
Janet Cooper – Benefits Officer
Dan Gaughan – Accounting/Fiscal Manager
Bill Hallinan – Information Technology Manager
Karla Scarf – Retired Payroll Manager
Denise Pizzini – Chief Legal Counsel
Tammy Rau – Deputy Executive Director
David Senn – Executive Director

OTHERS PRESENT:
Tom Bilodeau – MEA-MFT
Charlene Suckow – MREA
Elizabeth Kaleva – Counsel for Wesley Young
Wes Young – Frontier School District Dean of Students

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda for May 7th. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Turcotte move to adopt the agenda. Seconded by Member Layman, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS: Chairman Ryan called for public comment on Board related items. No public comments were made.

Frontier School District:

Eligibility for Retirement Benefits – Wesley Young

Ms. Pizzini gave a brief overview of the facts and discussion of this case from the February meeting. At this time, Mr. Young has tendered a settlement offer, through his legal counsel, Elizabeth Kaleva, by which settlement offer Mr. Young would agree to discontinue his employment with the Frontier school district under three contracts/position descriptions - one in a purported 1/3 time TRS-reportable position, and two other positions that Mr. Young argues are not TRS-reportable, as Director of Transportation and Director of Maintenance – and in exchange for his promise to discontinue working in the three positions, the TRS Board would agree not to pursue any additional recovery from Mr. Young for benefits paid during the term of his employment in three positions.

Ms. Kaleva briefly reviewed the School District's process in hiring Mr. Young in the three positions, explaining that, because of the size of the Frontier School District, they could not afford a second full-time administrator, and they could not logistically go down to just one administrator, after conversations with Mr. Young, the School District determined it was appropriate to reduce the principle position and designate the position as "Dean of Students." Mr. Young applied for and was hired for the Dean of Students position. Ms. Kaleva acknowledged that the Dean of Students position is a TRS-reportable position. Ms. Kaleva went on to explain that the School Board, at the same time, identified two other position needs - a Director of Maintenance and a Director of Transportation. She indicated that Mr. Young applied for both positions, was the most qualified candidate, and was hired by the School Board to fill both positions. Ms. Kaleva argued that the Montana Constitution vests the School Board with local control, which means the school board has exclusive authority to determine how many employee positions are filled in their School District, and what the duties of those positions are. Ms. Kaleva argued that the job descriptions for the maintenance and transportation positions do not qualify to be reported to TRS.

Ms. Kaleva acknowledged there may be concerns that the jobs were created so Mr. Young could draw his retirement benefits and continue to work in the school district in excess of the earnings limitations imposed by law. She stated that many school districts have taken similar advantage of the same "loop hole" in the law. She advised the Board to look at the Montana Constitution and local control, and the implementing statute, 20-3-323, MCA, which outlines the duties and powers of School Boards. She further asserted that the TRS Board is statutorily bound by what positions are eligible for the TRS, and the two additional job descriptions filled by Mr. Young are not, therefore, TRS cannot require those positions be reported to TRS.

Ms. Kaleva indicated that if this matter goes to a contested case hearing, there will be other similar positions identified with similar position descriptions that are being reported to PERS, and to which TRS has not objected.

Ms. Kaleva advised the Board that she is willing to work with Ms. Pizzini and Mr. Senn to come up with a rule which addresses the "loop hole" that led to this issue and TRS' concerns.

Chairman Ryan asked if the Board had any questions and/or comments:

Member Turcotte asked if Exhibit A was the current contract for the Dean of Students and if it pertains to a full time employee? Ms. Kaleva commented that it is not 1 FTE in a public school, it is limited to 142 hours a month and 1 FTE for a public school administrator is 260 days. It is not 1/3 time, because it doesn't need to be. Mr. Senn commented that full-time service under TRS statutes means 180 days per year or 140 hours per month for nine months; and part-time service is service that is less than full-time.

Member Turcotte asked how a member can work part-time 1/3 and have time to work two other 1/3 time jobs.

Ms. Pizzini commented that the issue before the Board was whether one TRS-reportable position is described as three positions so that Mr. Young would be eligible to receive TRS retirement benefits. The Board has a legal obligation to determine if Mr. Young is eligible for benefits under the circumstances.

Ms. Pizzini asked a number of questions of Mr. Young and Ms. Kaleva to clarify the process and timeframes by which Mr. Young was hired by the School District under the three position descriptions.

Member Layman commented on the process by which Mr. Young was hired under three position descriptions: he submitted his resignation, the School District cut the Principal position, the School District created the Dean of Students, Director of Transportation, and Director of Maintenance positions, and the total pay for all three positions was $53,000. Member Layman inquired whether this amount is more than the previous Principal position paid? Why didn't they just give Mr. Young a pay raise as Principal, as he did the same job description before? Ms. Kaleva advised Mr. Young not to respond and that they would move forward, and thanked the Board for their time.

MOTION/VOTE: Member James Turcotte moved to deny retirement benefits for Mr. Wesley Young, Seconded by Member Darrell Layman.

Chairman Ryan called for public comment on related items and the motion. No public comments were made. The motion passed unanimously.

Strategic Planning:

SWOT Analysis is completed, the Strategic planning analysis on strengths, weakness, opportunities, and threats, have been reviewed by the staff. The next step is to discuss, process, and document the 2009 goal and objectives.

Mr. Senn reviewed the Goals and Objectives to hire a communications officer, and suggested the Board delay hiring a communications officer until the system was better funded.

Mr. Kerins asked if the SWOT analysis, commitment worksheet, and the TRS 2009-2010 Goals & Objectives now could be used for public consumption. Member Mr. Layman felt the documents needed to be screened one more time, they are looking good, but a little rough in some areas.

Chairman Ryan commented that hiring of a communications officer should be kept at the front of the short term objectives, and that the cost should not be a factor, having the right individual could benefit, and save this system money.

It was the consensus of the Board to continue to work on the SWOT analysis, postpone hiring a communication officer, and to move forward with the remaining goals and objectives.

Board Members Communication Policy

Ms. Pizzini presented the proposed policy regarding communications by Board members with third parties related to TRS matters. The draft policy is intended to provide guidelines for Board member communications with third parties, in all circumstances, from acting as good will ambassadors for the retirement system to being asked for explicit information regarding benefits, pending issues, etc. Essentially, Board members should provide only prepared materials, refer individuals to the retirement system's statutes and administrative rules, and refer individuals to TRS staff for questions regarding benefits, pending matters, etc.

Policy on Policies

Mr. Senn reviewed the draft "policy on policies" which describes the proposed process by which TRS will develop and maintain policies in the future. Ms. Pizzini discussed the legal function of policies in an entity like TRS, and the value of ensuring that functions that are performed routinely are performed similarly and in conformity with the law and Board's direction each time. She also discussed the importance of keeping a record of policies issued, their effective dates, and who's responsible for implementing them, etc.,

MOTION/VOTE: Member James Turcotte moved to adjourn the meeting. Seconded by Member Jeff Greenfield, the motion passed unanimously.

ADJOURNED
The meeting was adjourned for the day at 4:52 p.m.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING
May 8, 2009

CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at 8:34 AM in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Tim Ryan - Chairman
Scott Dubbs – Via-Phone conference
Jeff Greenfield – New Board Member
Darrell Layman – Board Member
James Turcotte – Board Member

ABSENT:

Kari Peiffer – Board Member

STAFF PRESENT:

Natalie Chamberlain – Retired Benefits Specialist
Karla Scarf – Retired Payroll Manager
Johnelle Sedlock – Benefits Officer
Janet Cooper – Benefits Officer
Dan Gaughan – Accounting/Fiscal Manager
Bill Hallinan – Information Technology Manager
Denise Pizzini – Chief Legal Counsel
Tammy Rau – Deputy Executive Director
David Senn – Executive Director

OTHERS PRESENT:

Tom Altmaier - MREA
Tom Bilodeau – MEA-MFT
Merle Farrier – Retired TRS Member
Ronald Fuller – Retired TRS Member
Lynn Mavencamp – Retired TRS Member
John Vellutson - MREA
Colleen White – Legal Counsel DOC - Ronald Fuller case

ADOPT AGENDA - Chairman Tim Ryan asked for additions or changes to the Agenda of May 8th. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Darrell Layman move to adopt agenda. Seconded by Member Jeff Greenfield, the motion passed unanimously.

ADOPT MINUTES - Chairman Ryan asked adoption of February 19th & 20th Minutes. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member James Turcotte moves for approval. Seconded by Member Layman, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS Chairman Ryan called for public comment on Board related items. No public comments were made.

LEGAL COUNSEL REPORT
Repayment of Benefits paid in Error – Merle Farrier

Mr. Farrier addressed the Board requesting that his benefits be recalculated to include the years when he was in employment with the University System and participating in the Optional Retirement Plan.

MOTION/VOTE: Member Scott Dubbs moved to not recalculate Mr. Farrier' benefits. Seconded by Member Turcotte, the motion passed unanimously.

Repayment of Benefits paid in Error – Ronald Fuller

Ms. Pizzini gave a brief update on the Mr. Ronald Fuller case. Mr. Fuller is employed with the Department of Corrections (DOC) in a position that was reported to the TRS; however, for a number of years he was erroneously reported to the Public Employee Retirement System. Mr. Fuller was receiving retirement benefits from TRS during this period and has been overpaid benefits in the amount of $94,131.44. As of July 1, 2009, the amount owed by Mr. Fuller to repay the benefits received in error, plus interest, is $138,653.57. Mr. Fuller and the DOC, through its legal counsel, Colleen White, have submitted a settlement offer, which includes that DOC will contribute $50,000.00 towards the amount owed to TRS. The settlement offer, though, is conditional upon a request by Mr. Fuller that the TRS Board agrees to waive some or all of the accrued interest. The settlement offer does not specify either the specific amount of interest requested to be waived, or any specific basis upon which the waiver should be granted.

Both Mr. Fuller and Ms. White were present to provide information and answer questions. Mr. Fuller commented that he would not sign any agreement with the DOC until he knows what the Retirement Board would be willing to do, related to the interest. Mr. Fuller questioned the calculation of interest and asked that the Board waive the interest that is owed.

Chairman Ryan asked for questions or comments from the Board. Member Greenfield commented that the Board should not waive the interest.

Member Turcotte stated he would abstain from discussion or any comments as he has a conflict of interest.

MOTION/VOTE: Member Layman moved to deny the request to waive interest. Seconded by Member Greenfield, the motion passed unanimously, with Member Turcotte abstaining.

Chairman Ryan asked the Board if there was a motion to waive a portion of the interest if a full settlement proposal was available. Member Dubbs commented that the Board would need to see some sort of justification, right now it is about waiving all of the interest. Member Greenfield agreed with Member Dubbs that a complete proposal is needed before the Board considers waiving the interest. Member Layman had made the motion to deny waiving the interest and still stands behind the motion. Member Layman asked Legal Counsel, Ms. Pizzini, if the Board accepts the $50,000.00 from the DOC does that jeopardizes the collection of the remainder of interest balance.

Mr. Senn suggested he and Ms. Pizzini work with Ms. White and Mr. Fuller to clarify the calculation of interest for a settlement proposal. Chairman Ryan, so directed and asked that any corrections or settlement offer be presented to the Board when they meet in June, 2009.

Calculation of Retirement Benefits – Lynn Mavencamp Chairman Ryan determined that Mr. Mavencamp's privacy interest outweighs the public's right to know. The meeting was closed at 9:23 am.

Closed Meeting

Open Meeting **10:40 AM**

Break **10:40 AM**
Chairman Ryan called the meeting back to order at 10:51 am.

MOTION: Member Layman moved the Board to direct Mr. Senn and with the advice of Legal Counsel, Ms. Pizzini, to recalculate Mr. Mavencamp's benefits. Seconded by Member Turcotte.

DISCUSSION: Mr. Senn asked if the recalculation was to be based upon the assumption the 2 years with Frazer Public Schools were full-time? Mr. Layman responded that was the intent of his motion.

Member Greenfield requested clarification of the particular issue of the motion. Chairman Ryan responded the motion is to recalculate Mr. Mavencamp's benefits to include the two years with Frazer Public schools, and to recover the $55,000.00 in benefits he received during his first year with the District.

Member Greenfield asked how the 10% cap on salaries affected the calculation of benefits. Mr. Senn responded that under the Administrative Rules that the Board has adopted, the cap does not apply to the first year's salary when a retiree returns to work in a full-time position. Therefore, the 10% cap was not applied in Mr. Mavencamp's case.

Chairman Ryan asked for Public comment, Mr. Mavencamp clarified his understanding of the motion that it was the decision of the Board that the two contracts are one large contract and benefits will be calculated as such.

VOTE: The motion passed unanimously.

Mr. Mavencamp commented to the Board that he would need to appeal this decision and wanted to know what his monthly benefit would be while waiting for the appeal. Ms. Pizzini recommended to the Board the benefits continue at the current level until the administrative hearing is completed.

Chairman Ryan suggested Mr. Mavencamp be given the option to have the benefit recalculated immediately, or to continue to receive the current benefit amount, with the understanding that if he loses the appeal, any overpayment he received would have to be repaid with interest. Mr. Mavencamp stated that he would need to maintain the current benefit level, and asked for the recalculated benefit amount.

Case Update

Lawrence Bowman – Mr. Bowman was a retired member who elected to retire under option C, designating his wife at the time he retired in 1999 as his beneficiary. However, at the time we were processing his application for retirement benefits he was also in the process of getting a divorce. Shortly after his death in December 2007, his current wife claimed she should have been his designated beneficiary. To settle this issue, we filed a petition for declaratory judgment asking the Court to determine the appropriate beneficiary of Mr. Bowman under Option C. A settlement conference is mandated by the court and has been scheduled for June in Great Falls.

EXECUTIVE DIRECTOR'S REPORT

Mr. Senn reported Offerors had until May 19, 2009 to submit proposals for actuarial services. He asked the Board to decide on the date for oral presentation by the selected Offerors and topics required to be addressed in their presentations, and to approve the scoring matrix for the interviews and the due date for submitting financial data.

MOTION/VOTE: Member Turcotte moved that interviews be held on June 11, with financial data submitted no later than June 5. Offers would be asked to

provide a general overview of the actuarial firm, their experience designing retirement plans for public educators, and if they could build the ideal pension plan for public educators, what would the plan look like, how would the plan control cost, and if anyone was currently offering a plan similar to their ideal plan. Seconded by Member Greenfield, the motion passed unanimously.

It was agreed that 600 points would be available for the quality of presentation, 375 points for quality of presentation materials, 500 points for validity and substance of presentation, and 400 points for primary actuary's quality of communication.

Draft Administrative Rules Defining Series of Annual Payments

Mr. Senn reviewed the proposed administrative rule defining when bonuses and incentives would qualify as a series of annual payments and be reportable to TRS. He explained that current law excludes from the definition of earned compensation bonuses and incentives that are not part of a "series of annual payments". The question to be address in administrative rule is what would constitute a "series of annual payments". The Rau School District has used a percentage of available oil and gas revenues to pay bonuses to their teachers, the question is whether they are considered a series of annual payments. Mr. Senn distributed a letter from Ryan Bull, Rau School Board Chair.

Member Dubbs asked if the rule needed to require school districts and the employee to pay for the contribution rate on those bonuses. Mr. Senn responded that the rule did not need to because statute required contributions be contributed on all wages meeting the definition of earned compensation.

Mr. Bilodeau commented contracts exist that have a specified fixed bonus amounts. The Rau contract is unusual due to a percent of gas and oil revenue received. Special language needs to be written to specify each of the different years do not fluctuate because of the revenues available from year to year.

MOTION/VOTE: Member Layman moved to notice the proposed administrative rule as drafted for public hearing. Seconded by Member Dubbs, the motion passed unanimously.

2009 Session Recap

Mr. Senn updated the Board on the legislation we have been following that has been signed by the Governor, or are awaiting his signature.

Executive Summary

Mr. Senn advised the Board that an alternative summer work schedule for staff has been approved for June, July, and August.

OTHER BUSINESS

Interested Rate Credited to Member Accounts – Mr. Senn explained that each year the Board is required to set the rate of the interest that is credited to active members' accounts. Historically, the interest rate has been set close to the Short-Term Investments Pool (STIP) rate earned by the Board of Investments. As of March 31, 2009, the STIP return was 2.03% and has been steadily dropping since October last year. Staff recommended the interest rate credited to member accounts for the period July 1, 2009 – June 30, 2010 be reduced from 2.0% to 1.00%.

MOTION/VOTE: Member Layman moved that the interest rate be set to 1.0% effective July 1, 2009. Seconded by Member Turcotte, motion passed unanimously.

Investment Report Member Turcotte reviewed the report that was produced by the BOI showing the market has come up about 30%, but we are still behind the November 2007 highs. The long-range recovery assumptions still have a full recovery out several years.

Next Meeting Dates Tentatively scheduled for September 18 & November 13, 2009.

LUNCH 12:15 PM

The Board Meeting reconvened at 1:32 PM and Member Dubbs was re-connected via phone.

TRS 2009 Budget – Accounting/Fiscal Manager, Mr. Gaughan reviewed the Fiscal year 2009-2010 budget request, and the projected expenses through the end of FY 2009. Mr. Gaughan reviewed in detail the budget requested for Fiscal Year 2010.

Bill Hallinan IT Manager reviewed possibilities for purchasing an updated computer system in FY2010. A new system was necessary to replace an aging system and to provide for better disaster recovery. Mr. Hallinan reviewed three possible solutions for purchasing a new computer system and suggested the Board wait until their September Meeting to approve a request to update the current system.

MOTION/VOTE: Member Layman moved to approve the budget for fiscal year 2009-2010 as presented. Seconded by Member Greenfield, the motion passed unanimously.

Out of State Travel Requests

It was agreed that the out of state travel request would be postponed until the June 11, 2009 meeting.

Internal Control Policy

Mr. Gaughan reviewed the final internal control policy and the changes made since the draft was presented at the November's board meeting.

MOTION/VOTE: Member Greenfield moved to adopt the internal control policy and procedures. Seconded by Member Layman, Chairman Ryan asked for further discussion and comments from the public. Seeing none, the motion passed unanimously.

Financial Statements, Budget & Delinquent Agency Reports

Mr. Gaughan reviewed the current year financial statements and other reports and answered questions from the Board.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:24 p.m.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING
June 11, 2009

CALL TO ORDER:
Chairman Tim Ryan called the meeting to order at 8:00 a.m. in the Board of Investments Conference Room, 2401 Colonial Drive Helena, Montana.

BOARD MEMBERS PRESENT:
Tim Ryan - Chairman
Jeff Greenfield – Board Member
Darrell Layman – Board Member
James Turcotte – Board Member
Scott Dubbs- Board Member
Kari Peiffer – Board Member

STAFF PRESENT:
Denise Pizzini – Chief Legal Counsel
Tammy Rau – Deputy Executive Director
David Senn – Executive Director

OTHERS PRESENT:
Ms. Kaleva – Wesley Young's Legal Counsel Phone Conference 4:24 pm

ADOPT AGENDA - Chairman Tim Ryan asked for additions or changes to the Agenda for June 11, 2009. Finding none, Chairman Tim Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Jeff Greenfield move to adopt agenda. Seconded by Member Scott Dubbs, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS: Chairman Ryan called for public comment on Board related items. No public comments were made.

INSTRUCTIONS – JILL LOTTER, PROCUREMENT OFFICER

Ms. Lotter Procurement Officer welcomed the Offerors and committee members and reviewed with the committee and others present the procedure of the interview process required under the State's procurement standards, including:

Only the Committee and State of Montana Resource Representative may ask questions or participate in the interviews.
Comments from observers are not allowed.
Questions may address only the proposal or presentation.
Offerors have 1.5 hours to complete their presentation

PRESENTATIONS FOR ACTUARIAL CONSULTING SERVICES

Cavanaugh Macdonald

Ed Macdonald, Jose Fernandez, and Todd Green represented Cavanaugh Macdonald (Cav/Mac). CavMac consulting firm commented that they only do public sector work; not every firm does that. CavMac has a full team ready to be at service to all Board members, and staff at TRS. They will provide thoughtful and innovative solutions that will allow public sector benefit plans to thrive in the future.

CavMac currently has 8 Teachers Retirement systems and several government pension plans that they consult for throughout the states. They have the latest tools and the staff has significant experience in the public sector benefit plans.
Mr. Ed Macdonald responded to the request to explain their experience designing retirement plans for public educators and to identify the key elements of the "ideal plan". All members of the Cav/Mac team responded to questions.

Buck Consultants'

Dave Slishinsky and Michelle DeLange represented Buck Consultants. Buck currently provides actuarial and pension consulting services to 55 statewide systems, Buck consultants have a strong track record of being there for their clients, such as during legislative sessions, negotiations, and strategic planning meetings.

Buck Consultants have experience designing public pension plans, including DB, DC, and DB-Hybrid plans.

Dave Slishinsky responded to the request to explain their experience designing retirement plans for public educators and to identify the key elements of the "ideal plan". All members of the Buck team responded to questions.

Cheiron

Steve McElhaney and Fiona Liston represented Cheiron. Ms. Liston is one of the Co-Founders of Cheiron. Cheiron was formed in 2002, their core business is working jointly with trustee pension, health, and welfare funds, and having a reputation for being proactive, responsive, and developing and implementing innovative solutions. Currently they have contracts with 16 state retirement plans.

Mr. McElhaney designed retirement plans for the Virginia Retirement System and was involved with the University of Oklahoma transition to its Oklahoma Teachers' Retirement System.

Ms. Liston responded to the request to explain their experience designing retirement plans for public educators and to identify the key elements of the "ideal plan". All members of the Cheiron team responded to questions.

SCORING OF PRESENTATIONS

Evaluation and Award

Cavanaugh Macdonald-Total Points 6,872, Presentation -1,717 and Tier 1 - 5,155 points

Buck Consultants' - Total Points 6,419, Presentation 1,595, and Tier 1 - 4,824 points

Cheiron-Total Points 6,357, Presentation 1,580, and Tier 1- 4,777

Mr. Senn requested a motion to recommend the Contract for actuarial services be awarded to Cavanaugh Macdonald Consulting, LLC.

MOTION/VOTE: Member Dubbs move to offer the contract to Cavanaugh Macdonald. Seconded by Member Kari Peiffer, the motion passed unanimously.

LEGAL COUNSEL'S REPORT

Proposed Settlement Agreement – Ronald Fuller

Ms. Pizzini reviewed Mr. Fuller's case with the Board members. A tentative settlement proposal was presented by Mr. Fuller at the May 8th Board meeting, which included that the Department of Corrections would pay $50,000 towards the amount owed by Mr. Fuller. A contingency added by Mr. Fuller would have required the Board to waive all or at least a portion of the accrued interest; however, the amount of interest to be waived and any asserted basis for waiver was not specified. At the last Board meeting, the Board authorized Mr. Senn and Ms. Pizzini to communicate with Mr. Fuller and Ms. Colleen White, legal counsel for the Montana Department of Corrections (DOC), to examine what portion of the accrued interest Mr. Fuller was requesting be waived, and the basis for the requested waiver. Further communication with Mr. Fuller and Ms. White failed to conclude in final settlement terms.

Mr. Fuller appeared before the Board, and informed the Board that he did not have legal counsel and that he was not going to sign an agreement until he can work with DOC so he can have a retirement that he can survive on. Mr. Fuller again indicated that he would be asking the Board to waive a portion of the interest. Ms. White was also present and available to provide information on behalf of DOC.

Member Dubbs asked Mr. Fuller to explain what portion of the interest he was asking the Board to waive. Mr. Fuller indicated he would like the interest waived from August 2002 to 2005 when he was unaware of the rules and regulations of

the TRS, and for which timeframe he felt he should not be charged the interest. Mr. Senn clarified the interest that accrued during that 3 year period is around $12,000.00.

Member Dubbs asked Mr. Fuller whether he would be willing to settle with DOC if the TRS Board approves reduction of the interest as he was requesting. Mr. Fuller commented that he could not answer that question unless he knew if the amount of money was able to rectify this situation.

Member Peiffer asked Mr. Fuller if it was his intention to get a lawyer. Mr. Fuller responded that he was talking with a lawyer. Member Peiffer commented on behalf of the Board that with the amount of money at issue Mr. Fuller needs legal advice.

Chairman Ryan commented to the Board, Mr. Fuller and Ms. White that this situation is between Mr. Fuller and the DOC. Ms. White the representative for the DOC commented that she is in agreement with the Chairman Ryan's statement. Ms. White also commented that she was hoping that an agreement would be put in place with Mr. Fuller and the TRS Board, due to the fact that there is a time limit on the availability of the money that the DOC has available to settle this issue, and after the fiscal year end the money may not be available due to budget cuts expected to be made within the State of Montana. Ms. White encouraged Mr. Fuller to seek advice of legal counsel and to have his legal counsel get in contact with her.

Member Dubbs stated that the Board is willing to help resolve this issue with Mr. Fuller, but the situation between Mr. Fuller and the DOC will need to be resolved.

MOTION/VOTE: Member Greenfield moved to table the request from Mr. Fuller. Seconded by Member Dubbs, the motion passed unanimously.

OTHER BUSINESS

Out of State Travel

Mr. Senn presented out-of-state travel for the NCTR Conferences for himself and the Board members scheduled for July and October. Mr. Senn asked if, do to budget cuts this year, the Board wanted to send Board members or staff to the NCTR conference. Chairman Ryan commented that both Conference dates should be left open for Board members and staff to attend, as these conferences are educational and provide great value to the Teachers' Retirement System.

MOTION/VOTE: Member Darrell Layman moved to approve out of state travel for two Board members to attend the October NCTR Conference. Seconded by Member Dubbs, the motion passed unanimously.

4:24 p.m. Phone Conference with Ms. Kaleva

Ms. Pizzini reviewed the discussions from the February and May 2009, board meetings regarding Mr. Wesley Young's reemployment following his retirement with the Frontier School District. In a letter dated June 3, 2009, Ms. Kaleva, on behalf of Mr. Young, stated Mr. Young would agree to resign as Maintenance Supervisor and Transportation Director as of June 30, 2009. He will remain in the current position as the Part-time Dean of Students. In exchange for the concession, Mr. Young would be permitted to retain his retirement benefits for the 2008-09 school year.

Ms. Kaleva commented that Mr. Young is giving up two legitimate contracts that he rightfully entered into in good faith, and has agreed not to enter into another contract in the district or any other district. Ms. Kaleva stated that if the Board did not accept the settlement offer, that Mr. Young does not have $26,000 for the repayment of benefits, and if he has to take this matter further into a lengthy court matter he is willing to go forward.

Ms. Pizzini asked several questions of Ms. Kaleva, if the school had been notified, and do they have representation? Ms. Kaleva had not notified the school and she doesn't represent the school. If Mr. Young is required to repay benefits will he remain in the two positions? Mr. Young has not signed any contracts for the upcoming school year. Is there some negotiation of any portion of the repayment of benefits?

Chairman Ryan commented that if the Board negotiates repayment of any of the benefits that were paid out, is Mr. Young willing to come up with some names of retirees who are in this same situation.

Ms. Kaleva commented that she needed to consult with Mr. Young and she would get back with TRS on that question, she thanked the Board.

Mr. Senn recommended the Board enter into good faith negotiations with Mr. Young and his attorney to recover some portion of the benefits paid to Mr. Young. Chairman Ryan commended that the Board needs to look at recovering some portion of the benefits received, and Mr. Young should also identify the individuals he has knowledge of who have entered into the same contractual arrangements with other school boards.

PUBLIC COMMENT ON BOARD RELATED ITEMS NOT ON THE AGENDA
Chairman Ryan called for public comment No public comments were made.

MOTION/VOTE: Member Greenfield moved to direct staff to enter into negotiations with Mr. Young to recover some portions of the benefits paid to him, and to identify other individuals Mr. Young has knowledge of who have been

reemployed under similar contracts. Seconded by Member Turcotte, motion passed unanimously.

Mr. Senn addressed Chairman Ryan on behalf of the Board members and the TRS staff with a gift; thanking Mr. Ryan for his time and service as a TRS Board member.

Chairman Ryan commented to the Board and TRS staff that it was his pleasure and complimented the board and staff on all they do for the teachers of the State of Montana. Thanks to all.

ADJOURN MOTION/VOTE: Chairman Ryan moved to adjourn meeting 4:47PM.

Chairperson _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING
SEPTEMBER 18, 2009

CALL TO ORDER:

Vice-Chair Kari Peiffer called the meeting to order at 8:31 AM in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Scott Dubbs – Board Member
Jeff Greenfield – Board Member
Darrell Layman – Board Member
Robert Pancich – Board Member
Kari Peiffer – Board Member
James Turcotte – Board Member

STAFF PRESENT:

Natalie Chamberlain – Retired Benefits Specialist
Johnelle Sedlock – Benefits Officer
Bill Hallinan – Information Technology Manager
Denise Pizzini – Chief Legal Counsel
Tammy Rau – Deputy Executive Director
David Senn – Executive Director

OTHERS PRESENT:

Tom Bilodeau – MEA-MFT
Elizabeth Kaleva – Wes Young Legal Counsel
Ashley Lalum – Kari Peiffer's Student Teacher
Madalyn Quinlan – OPI Director
Cliff Sheets – CFA, CIO Board of Investments
Charlene Suckow – MREA

ADOPT AGENDA – Vice-Chair Peiffer asked for additions or changes to the Agenda for September 18, 2009. Finding none, Vice-Chair Peiffer requested a motion to adopt the Agenda.

MOTION/VOTE: Member Layman moved to adopt agenda. Seconded by Member Greenfield, the motion passed unanimously.

APPROVAL OF MAY 7TH & 8TH, AND JUNE 11, 2009 MINUTES –
Vice-Chair Peiffer called for changes of the May 7th & 8th and June 11, 2009 Board Meeting Minutes. Finding none, Vice-Chair Peiffer requested a motion for approval of May 7 & 8, and June 11 board minutes.

MOTION/VOTE: Member Greenfield moved to approve the May 7 & 8 and June 11, 2009 Minutes. Seconded by Member Layman, the motion passed unanimously. Member Pancich abstained he was not present during those board meetings.

PUBLIC COMMENT –Vice-Chair Peiffer called for Public Comment on Board-Related items. No Public Comment made.

EXECUTIVE DIRECTOR'S REPORT

OPI Membership Proposal
Mr. Senn reviewed the proposal submitted by the Office of Public Instruction (OPI) and House Bill 59, passed by the 2009 Legislature which included language changes clarifying membership eligibility for employees of OPI. The OPI proposal would include all instructional coordinator positions and the supervisors of these positions, i.e., the managers within the Department of Education Services, as positions required to participate in TRS. The proposal would grandfather all current employees in the retirement system, PERS or TRS, assigned by OPI at the time they were hired.

Madalyn Quinlan, Chief of Staff of The Office of Public Instruction, commented she was optimistic that this would resolve a ten year discussion regarding the assignment of positions of OPI staff to the two retirement systems. The advantage is the standard classification guide will help determine who will be assigned to what Retirement System.

MOTION/VOTE: Member Turcotte moved the Board ratify the OPI proposal that any person hired by OPI on or after July 1, 2009, to fill a position in which the person will be employed in an educational services capacity, will be reported to the Teachers' Retirement System in conformity with House Bill 59 as passed by the 2009 Montana Legislature; and that any person hired by OPI prior to July 1, 2009, though the person may be employed in an educational services capacity, will continue to be reported to the retirement system the person was assigned to as of June 30, 2009, for as long as the person remains employed in the same position.

As part and parcel of this motion, I move that the Board recognize that a person hired by OPI in an educational services capacity will generally be employed in a position that is classified under the State's broadband classification system in Group 25 – Education, Training, and Library. In addition, positions classified in Group 11 – Management and Administration will be a position that supervises subordinate positions that are classified in Group 25. However, I further move that the Board direct the TRS staff that state classification of an OPI position in Group 25, or in Group 11 and supervising subordinates in Group 25 may not be

solely determinative of those OPI positions that are reportable to the Teachers' Retirement System as persons employed in an educational services capacity.

Ms. Rau asked if the proposal excluded the two Librarian positions. Ms. Quinlan replied that the two librarian positions would not be covered under the TRS.

Vice-Chair Peiffer asked for a second in the motion, Seconded by Member Dubbs,

Member Dubbs thanked Madalyn for all the work that it took for this proposal to happen. It has been 10 years, it was a confusing process, and asked if she would continue to be vigilant in that some of the positions seem to overlap. For example Health enhancement - this is typically a curriculum title, in the office of public instruction it goes both ways.

Vice-Chair Peiffer asked all in Favor of Motion: the motion passed unanimously

Administrative Rules

The scheduled hearing on the proposed rules to establish criteria to determine when incentives and bonuses would be deemed to be part of a series of annual payments and included in earned compensation was held on September 11, 2009. TRS received public comment on four specific points at the hearing. The proposed responses to the public comment were provided and discussed as part of the proposed adoption notice. Mr. Tom Bilodeau, MEA-MFT, provided additional public comment regarding two issues he raised at the public hearing: First, Mr. Bilodeau restated his request that subsection 4 of the proposed rule be modified to reference the exception to application of the 110% cap for bonuses or incentives paid subject to a collective bargaining agreement, which exception is provided for in an existing administrative rule. Following discussion, it was determined that the proposed rule would be modified to reference § 19-20-715, MCA, and any administrative rules clarifying that statute. Second, Mr. Bilodeau requested clarification that subsection 5 of the proposed administrative rule does not exclude extra duty pay or other pay types currently recognized as elements of earned compensation. Ms. Pizzini clarified that proposed subsection 5 establishes that bonuses or incentives determined as a percentage of annual salary may be determined based only upon the scheduled salary or the base annual contract salary if included in earned compensation, but that the proposed language of subsection 5 has no effect in determining what are appropriate elements of earned compensation outside of consideration of bonuses and incentives paid as part of a series of annual payments. Member Greenfield identified an additional instance in the adoption notice where "annual base contract salary" should have been changed to "annual salary." Member Layman suggested that proposed subsections 4 and 5 be transposed to enhance clarity.

MOTION/VOTE: Member Layman moved to approve the proposed notice of adoption with amendments as determined in discussion. Motion was seconded by Member Greenfield; motion passed unanimously.

Mr. Senn announced that Ms. Kaleva, Mr. Wesley Young's attorney was ill and asked if she could reschedule to 2 pm. The Vice-Chair directed the discussion on Mr. Young's proposed settlement offer be postponed until 2:00 pm.

SAVA Committee Meeting

Mr. Senn reported the SAVA committee met on June 26 and elected Senator Joe Tropila chairman. The committee discussed hiring their own actuary and other consultants to assist in developing a new pension plan for TRS members hired after July 1, 2011. A tentative meeting schedule was adopted, with a September meeting already cancelled, and a two day meeting scheduled for October 29 and 30. It is anticipated the actuaries for the retirement boards will present a basic summary on what actuaries do and how they do it, "Actuarial 101", and an overview of the 2009 valuation reports. The Committee also has a conference call scheduled for October 1, to determine if they want to hire their own consultant/actuary or use the retirement board's actuaries. Mr. Senn stated, while he felt it was important for the actuaries to be here for the SAVA committee meeting; however, he was concerned that the additional expense was outside the budget approved by the Board in May, and might require a budget amendment.

An email will be sent to the Committee prior to the October 1 conference call advising the SAVA committee that the TRS board is still willing to share actuarial services and the cost with them to study options for a new plan design for the TRS.

Executive Summary

Mr. Senn reviewed the Market Value of Liabilities (MVL) accounting issue and discussed the current review/study by the Governmental Accounting Standards Board (GASB). Mr. Senn also advised the Board that he had received a letter from the Budget Director cautioning the Board about taking a position on the subject in the RFP issued for actuarial services, although he understood the reasons for not applying the MVL approach to public pension plans. Mr. Senn also advised the Board that TRS had recently assisted in responding to separate surveys form the Governmental Account Standards Board, the Government Accountability Office, and the Security Exchange Commission.

National Councils on Teacher Quality (NCTQ) – This organization puts out "State Teacher Quality Yearbook" each year. Last year, without giving public plans an opportunity to comment, the report stated current plans "continue to provide teachers with expensive and inflexible pension plans that do not reflect the realities of the modern workforce". This year they did give us a chance to reply to the draft report.

Mr. Senn commented on a report to the Board of Investments in which several inaccurate statements were made regarding the calculation of normal cost and total liabilities. A reply will be prepared by the Executive Directors for the retirement boards.

Mr. Senn reported, TRS experienced 200 fewer retiree's this year than in the previous fiscal year. This allowed the staff time to rewrite the member's handbook, develop a retiree handbook, and produce tutorials for the members and clerks to view on our website. Ms. Cooper had taken the lead on these projects, and Mr. Senn encourages the Board members to look at these documents on the TRS website. He also reported Jenny Stark had developed a Newsletter, and looks forward to its distribution.

LEGAL COUNSEL REPORT

FBAR Reporting. Ms. Pizzini advised the Board of recent developments related to potential reporting requirements for the retirement system and the individual Board members under federal law requiring reporting of funds held in foreign accounts. Ms. Pizzini has determined, based on information provided by the BOI that the TRS funds held in foreign accounts are held as commingled funds. Therefore, TRS and the individual Board members are subject to a report filing extension to June 30, 2010. Ms. Pizzini will continue to follow this issue and will report to the Board again regarding reporting requirements prior to the June 30, 2010, extension deadline.

Case Updates

Bowman – Ms. Pizzini reported to the Board that she and Mr. Senn participated in a mediated settlement negotiation, per Court order, related to TRS' petition for declaratory judgment to determine the appropriate beneficiary of deceased member, Lawrence Bowman. In mediation, agreement was achieved on all substantive points. The beneficiary designation will be amended; benefits will be actuarially adjusted going forward to recover the TRS benefits that were overpaid based on the original beneficiary designation; the settlement agreement will be filed with the court for entry as a final determination regarding designation of a legal beneficiary; all other terms and conditions of the settlement agreement between the two defendants will be given effect in a manner that has no effect on TRS. TRS agreed and has paid the mediator fee of $1,460.

Ronald Fuller. Ms. Pizzini reported that there has been no further contact from Mr. Fuller or the Department of Corrections regarding settlement of any portion of the amount of overpaid benefits owed by Mr. Fuller to TRS. In the absence of any settlement agreement, TRS has fully informed Mr. Fuller that it will recover the overpaid benefits by actuarially adjusting his benefit at the time he retires to recover the overpaid benefits plus interest.

Merrill Farrier. Ms. Pizzini advised the Board that following his last appearance before this Board in May, Mr. Farrier requested that his benefits be recalculated to include credit for his years of service with the U of M during which he was not able to receive TRS benefit. Although the matter was not before the Board as an action item, Mr. Farrier has referenced a final estimate of benefits from TRS provided in conjunction with Mr. Farrier's termination with U of M and application for retirement benefit as a final determination of the Board and has filed a petition for judicial review in District Court in Helena (Judge Seeley). Ms. Pizzini has responded on behalf of TRS. Oral arguments are scheduled for December 1, 2009.

Lynn Mavencamp. Ms. Pizzini advised the Board that Mr. Mavencamp has filed a request for a contested case hearing. A hearing examiner was requested through the agency legal services division of the AG's office; a scheduling order has been issued. Discovery will continue through December 31, 2009, with a hearing scheduled for March 25, 2010. Ms. Pizzini further advised the Board that, as the Board is the ultimate decision-maker in the contested case proceeding, statutes prohibiting ex-parte communications are in effect, and it is inappropriate for any Board member to communicate with TRS staff or any other person regarding the case. If the Board has procedural questions about the case, they should direct such questions to Ms. Pizzini.

NAPPA Conference Report. Ms. Pizzini reported to the Board that the main topic of the conference was the market down turn and efforts being made by plans to effectuate financial recovery. While there were no suggestions on how to recover the loss of assets there were presentations and conversations about the efforts of pension plans across the country to address the financial concerns through plan design revision. Such efforts raise issues of the constitutional and contractual rights of retirement plan participants, and the fiduciary duties of retirement boards and employees in participating in and responding to legislative proposals for plan benefit modifications. Ms. Pizzini thanked the Board for letting her attend the conference.

Break 10:21 AM

Fiduciary Training
Ms. Pizzini provided two handouts to the Board: the first detailing the general fiduciary obligations of TRS Board members; the second specifically detailing the responsibility of TRS Board members in dealing with actual and apparent conflicts of interest.

Ms. Pizzini identified appropriate steps to be taken by Board members to identify potential conflicts of interest, receive a determination from Ms. Pizzini regarding appropriate management of the identified actual or apparent conflict of interest,

and make an appropriate record of identified conflicts of interest and result with respect to participation in board consideration/action on the issue.

OTHER BUSINESS

FY 2010 Actuarial Services & Information Technology(IT) Budget Amendments
Mr. Senn reviewed the FY 2010 budget for Actuarial Services and the reasons for the proposal to the Board to increase the budget $18,000 to cover additional cost for completing multiple experiences studies in May 2010.

At the May meeting the Board postponed completion of the IT budget until staff could complete further research on replacing the servers. Mr. Hallinan reported he had completed the research to replace the aging servers and recommended the TRS to have two redundant virtual systems; one system would be housed here in Helena and the other in Miles City when that data center is up and running. The equipment and software upgrades would be $160,000.

MOTION/VOTE: Member Dubbs moved to approve the IT budget recommendation of the $160,000, and the Actuarial Services budget amendment of $18,000. Member Turcotte seconded the motion. The motion passed unanimously.

Out of State Travel – 2009 NCTR Annual Conferences

MOTION/VOTE: Member Layman moved to approve the out-of-state request for Mr. Senn to attend the NCTR Conference. Seconded by Member Dubbs, the motion passed unanimously.

Board of Investments Report
Member Turcotte gave a brief summary and encouraged the Board to ask questions of Mr. Sheets when he attended the meeting later in the day.

PRISM Conference Report
Mr. Hallinan reported that over 60 system managers attended the Public Retirement Information System Managers (PRISM) conference this year. The keynotes of the conference covered how we as individuals are moving toward technology that is simplistic, more digital. He gave the example of Twitter becoming the new communication way, no more paper.

Member Pancich asked about the security of member's accounts, and the possibility of a social security number being intercepted within the virtual world. Mr. Hallinan explained that security has improved over the past few years. He commented that the Board did not need to worry about the security breaching within TRS, all system data is encrypted, and the new system has a better system than what we have now

GFOA Conference Report

Ms. Rau reported on the classes she attended regarding internal control, Performance Management, and Management Policy on Emergency Management Preplanning bases. Ms. Rau commended the 'hot' topic was MVL and was it appropriate for Public Pension Plans.

Next Meeting Date

The next meeting date is scheduled for November 13, 2009.

Financial Statements, Budgets, & Travel Reports

Ms. Rau reviews the budget reports on behalf of Mr. Gaughan. Ms. Rau advised the Board the TRS received the GOFA award certificate for achievement for excellent for financial reporting again this year and recognized Mr. Gaughan for his work in preparing the financial statements. Ms. Rau reported there are no delinquent agencies to report for this past quarter.

Member Layman asked approximately how many benefits are processed through electronic transfer. Ms. Rau responded roughly around 90-95%.

LUNCH

PRESENTATION BY THE BOARD OF INVESTMENTS –CLIFF SHEETS, CIO

FY 2009 Performance Report and Outlook for FY 2010 and Beyond

Mr. Cliff Sheets, CIO, Board of Investments (BOI), presented the official report for the fiscal year 2009. Mr. Sheets explained that this a good time to go over the report, and if the Board has additional questions or wants to meet up in the future he would be available. There have been some notable improvements since the end of the Fiscal year. Mr. Senn asked how close the allocation matches the asset liabilities studies and recommendations that came out. Mr. Sheets commented that we are probably high on private equity than what is showed, and at that time we had zero on real estate exposure targeted a 4-8% band. The allocation highlights there has been a dramatic fall in dollars, notable changes in the decline in public stock prices, and overall our total equity weight has fallen about 4%, it was offset by an increase in the private equity pool. Note; the real estate and private equity lag behind about 3 months. As of September 17 the Teachers allocation was 66.2% for all equities, 55.2% in public equities, 11% private equities. Two months into the current fiscal year we are at 7%, which is good compared to what the past has been through. Overall the market is going to have a slow rebound.

LEGAL COUNSEL REPORT - Continued

Wesley Young – Legal Counsel Ms. Kaleva

Ms. Pizzini reports to the Board that Mr. Young, through his legal counsel has requested that the Board reconsider his prior offer of settlement. Ms. Pizzini reviewed the relevant facts of the Young matter.

Mrs. Kaleva thanked the Board for rescheduling and being able to come before the Board to represent Mr. Young. Ms. Kaleva reiterated Mr. Young's legal arguments in this matter and requested that the Board approve the settlement agreement previously offered by Mr. Young whereby Mr. Young would terminate his employment in the Director of Maintenance and Director of Transportation positions with the Frontier School District, and work within the 1/3 earnings limitation going forward. In exchange, TRS would agree not to pursue recovery of retirement benefits paid to Mr. Young during the time that he was employed by the school district under the three position descriptions. Ms. Kaleva specifically brought to the Boards attention that TRS statute limits the compensation that may be earned by a retired member after retirement while working a position "that would normally be covered under the TRS." She asserts the Director of Maintenance and Director of Transportation positions are not normally covered under TRS.

Ms. Kaleva explained, Mr. Young has two avenues to approach this: First, an Age Discrimination claim - all he has to do is show he is in a protected class and younger members are being treated differently.

Second, there are several individuals who are retired TRS members, work outside of the school system, and hold positions identical to Mr. Young's. Those wages are not counted as TRS reportable wages.

When you look at your statutory duty to treat all your members equally, and combined with the issues Mr. Young is at a certain age and there are individuals younger than Mr. Young who are not being treated that way, Mr. Young has a compelling claim. He is being singled out because of his age. Mr. Young is willing to resign from his two current positions that is claimed to be reportable to TRS. Frontier School District will advertise those positions and hire other individuals and Mr. Young will not apply. He is asking that the Board consider that as a settlement to this issue. The other issue coming up is if you find that it was reportable wages you will have to go after the School District as well.

Ms. Pizzini asked Ms Kaleva: It was indicated that Mr. Young would terminate his 2 positions. What would his status be at the school after that? Ms. Kaleva commented that he would be a Part-Time Dean of Students and not earning more than the reportable amount. Member Dubbs asked how many students and staff are currently at Frontier School District. Ms. Kaleva responded last year they had 24 Staff members, 75 students, a lot of the staff are part-time aides, so there are approximately 15 full-time staff.

Member Dubbs asked Mr. Senn and Ms. Pizzini: are they comfortable that we don't believe we have other members doing this same thing? Mr. Senn asked Ms. Kaleva if she knows other members who are receiving a TRS benefit and working in Maintenance and Transportation jobs. Ms. Kaleva responded yes, she does. Mr. Senn questioned whether those same individuals also working in a 1/3 TRS reportable position? Ms. Kaleva indicated, yes, they are.

Vice-Chair Peiffer commented that this issue needs to be taken care of, if we have a lot of individuals out there now who are doing this same thing. Vice-Chair Peiffer asked for motion regarding whether the Board is going to accept their offer for settlement, or decline.

MOTION/VOTE: Member Turcotte moved to decline Mr. Young's settlement offer; seconded by Member Greenfield. The motion passed unanimously.

DISABILITY APPLICATIONS

Vice-Chair Peiffer noted she had a conflict of interest with Randall Miller; she has worked with his wife for 13 years, and knows Mr. Miller personally. Ms. Pizzini recommended that Vice-Chair Peiffer abstain from participating in Board consideration/action in this disability case.

Member Greenfield indicated he has a conflict of interest with respect to the disability application of Janet Young in that she is a member of his collective bargaining unit, and as a union rep he has advised her with respect to her disability application. Ms. Pizzini indicated that Mr. Greenfield should not be present during the Board's consideration of Ms. Young's application and should abstain from voting in the matter.

CLOSED MEETING

Vice-Chair Peiffer directed the meeting be closed at 3:06 pm to discuss and review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

OPEN MEETING

Ms. Pizzini noted for the record that Member Greenfield has a conflict of interest with respect to participating in Board actions related to consideration of the Disability application of Janet Young, Member Greenfield indicated that he is a Union Representative for Janet Young and has been personally involved with preparation of Janet Young's disability application. Due the conflict of interest Member Greenfield has excused himself during consideration of Janet Young's disability application and abstains from voting.

Applications for Disability Benefits

MOTION/VOTE: Member Dubbs moved to approve Janet L. Young disability. Seconded by Member Pancich, the motion passed unanimously.

MOTION/VOTE: Member Turcotte moved to approve Billie Askam disability. Seconded by Member Pancich, the motion passed unanimously.

MOTION/VOTE: Member Greenfield moved to approve Linda K. Borntrager disability. Seconded by Member Layman, the motion passed unanimously.

MOTION/VOTE: Member Dubbs moved to approve Joan A. Cote disability. Seconded by Member Pancich, the motion passed unanimously.

MOTION/VOTE: Member Turcotte moved to approve Grayce A. Holzheimer disability. Seconded by Member Pancich, the motion passed unanimously.

Ms. Pizzini noted for the record that Member Peiffer has a conflict of interest related to the Board's consideration of the disability application of Randall B. Miller in that she works in the same school district, is a member of the same bargaining unit, and has substantial knowledge of underlying facts and circumstances. She will therefore abstain from voting in the matter of Mr. Miller's disability application.

MOTION/VOTE: Member Dubbs moved to table Randall B. Miller disability. Seconded by Member Turcotte, the motion passed unanimously.

MOTION/VOTE: Member Greenfield moved to approve Samuel S. Petryszak disability. Seconded by Member Layman, the motion passed unanimously.

PERSONNEL COMMITTEE REPORT

Staff Performance Appraisal Process

Mr. Senn reported the Personal Committee, Member Layman and Member Dubbs, will meet on Thursday, November 12, 2009, to complete the performance appraisal for David Senn. Jim Kerins, Personnel Specialist, Communication Management Services, will assist the Board in the appraisal process.

ELECTIONS OF OFFICERS

MOTION/VOTE: Member Dubbs nominated Member Kari Peiffer as the Chair of the Teachers' Retirement Board; seconded by Member Turcotte. Member Dubbs

asked Member Peiffer if she can serve as Chair. Ms. Peiffer responded that she could. The motion passed unanimously

Chair Peiffer asked for a motion for Vice Chair

MOTION/VOTE: Member Dubbs nominated Member Darrell Layman as the Vice Chair.; seconded by Member Turcotte. The motion passed unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:06 p.m.

Chair _____

Executive Director _____

TEACHERS' RETIREMENT BOARD MEETING
November 13, 2009

CALL TO ORDER

Chairperson Kari Peiffer called the meeting to order at 8:32: AM in the Board of Investments Conference Room, 2401 Colonial Drive, Helena, Montana.

BOARD MEMBERS PRESENT:
Kari Peiffer - Chair
Scott Dubbs
Darrell Layman
James Turcotte
Jeff Greenfield
Robert Pancich

STAFF PRESENT:
David Senn – Executive Director
Tammy Rau – Deputy Executive Director
Denise Pizzini – Chief Legal Counsel
Dan Gaughan – Accounting / Fiscal Manager
Bill Hallinan – Information Technology Manager
Charlene Welch – Executive Assistant

OTHERS PRESENT:
Charlene Suckow – MREA
Ed Macdonald – CAV/MAC
Todd Green – CAV/MAC
Marco Ferro – MEA-MFT
Nancy Hill – OBPP
Roxanne Minnehan – MPERA
Darrell Rud – SAM
Cliff Sheets – MBOI
Rachel Weiss – Legislative Services

ADOPT AGENDA:
Chairperson Peiffer asked for additions or changes to the Agenda for November 13, 2009. David Senn requested the Executive Session to Discuss Disability Applications be heard after the Executive Director's Report. Mr. Senn also asked that the Action Item, Out of State Travel Requests, be changed to a Discussion Item. Chairperson Peiffer asked for a motion to adopt the revised agenda.

MOTION/VOTE:
Member Greenfield moved to adopt the revised agenda. Seconded by Member Layman, the motion passed unanimously.

APPROVAL OF MINUTES:
Chairperson Peiffer called for changes to the September 18, 2009 Board Meeting Minutes. Finding none, Chairperson Peiffer requested a motion for approval of the September 18 board minutes.

MOTION/VOTE:
Member Greenfield moved to approve September 18, 2009 board minutes. Seconded by Member Layman, the motion passed unanimously.

PUBLIC COMMENT:
Chairperson Peiffer called for public comment on Board related items. No public comments were made.

ACTUARIAL VALUATION:
Ed Macdonald and Todd Green from the Cavanaugh Macdonald Consulting Firm presented the July 1, 2009 Actuarial Valuation.

MOTION/VOTE:
Member James Turcotte moved to adopt the July 1, 2009 Actuarial Valuation. Seconded by Member Scott Dubbs, the motion passed unanimously.

Break 10:00: AM

EXECUTIVE DIRECTOR'S REPORT:
Mr. Senn reported the Rau School District had amended the bonus language in their collective bargaining agreement to comply with the administrative rule adopted by the Board in October to provide for an annual payment limit of 15% of the member's contract. Mr. Senn recommended the Board approve a settlement agreement, agreed to by the School District, to accept previously paid bonuses as limited by the Board adopted Administrative Rule and the District's amended collective bargaining language.

MOTION/VOTE:
Member Turcotte moved the Board accept the retroactive applications for Rau school district bonus payment. Seconded by Member Darrell Layman, the motion passed unanimously.

OCTOBER 29 & 30 SAVA COMMITTEE MEETING:
Mr. Senn informed the Board that during the Oct. 29th and 30th meeting the SAVA committee heard the actuarial reports for the TRS/PERS systems. The SAVA committee also heard from Mr. Carroll South regarding what happened to the financial markets and the impacts on the pension funds.

During the HB 659 discussion, the SAVA committee decided to issue an RFP for plan design services and to use the system's actuaries for all cost calculations. The committee also discussed the issue of whether or not they needed to employ an actuary or plan design consultant. The Committee decided to hire a plan design consultant.

Marco Ferro from MEA-MFT stated he was standing in for Tom Bilodeau who was at a retirement conference in Washington D.C. Mr. Ferro handed out to the Board copies of a modified TRS PRO Bill. Mr. Ferro commented on some of the items MEA-MFT was very concerned about that have been discussed before in SAVA committee meetings, and which particular items they would not support. Mr. Ferro stated specifically any imposition of a defined contribution plan for future employees or any option for new TRS hires to elect a defined contribution rather than a defined benefit plan. Mr. Ferro also thanked the TRS staff for coming to the MEA-MFT retirement seminars.

2011 LEGISLATIVE CONCEPTS:

Mr. Senn report that as part of the biennial Executive Planning Process after the first of the year the Board would be asked to submit "legislative concepts" to the Governors Budget office by mid April 2010, with draft legislation due by mid September 2010. Historically, the Board's legislative concepts include housekeeping and funding proposals that focused on recent changes in federal laws and/or regulations.

The Board discussed the funding proposals of requiring all (new hires) school district employees to be members of TRS, and to include all compensation paid to a working retiree by a TRS employer in the one-third earnings limit, this would include PERS, and TRS positions.

Mr. Senn suggested a legislative committee be appointed to discuss and advise him on upcoming issues with regards to the SAVA committee and legislation. Member Dubbs and Member Greenfield stated they would be interested in taking part. Chairperson Peiffer appointed both Member Dubbs and Member Greenfield to sit on the legislative committee.

Roxanne Minnehan, Executive Director, MPERA discussed the PERS Board's opposition to requiring all (new hires) school district employees to be members of TRS because transferring new employees would reduce the funding available to PERS to amortize current unfunded liabilities.

ANNUAL PER DIEM ELECTION FORM:

Mr. Senn explained that each year members of the TRS Board that are also public employees (teachers and administrators) who receive both the $50 per diem while serving as a Board member and their regular salary for an overlapping period, must file a Multiple Public Employment Disclosure Form by

December 15. He asked any board member needing to complete the disclosure form to contact him as soon as possible.

EXECUTIVE SUMMARY:
The Legislative Auditor's office is in the final stages of completing their financial audit of the Teachers' Retirement System. TRS expects they will issue an unqualified opinion on financial statements with one audit recommendation that the Board seek funding to ensure the system is actuarial funded.

Mr. Senn made available to the Board a copy of the memo from Governor Schweitzer specifying the requirements for public participation in agency decisions.

EXECUTIVE SESSION TO DISCUSS DISABILITY APPLICATIONS:

CLOSED MEETING

Chairperson Peiffer directed the meeting to be closed at 11:30: AM to discuss and review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

OPEN MEETING:

APPLICATIONS FOR DISABILITY RETIREMENT BENEFITS:

MOTION/VOTE:
Member Layman moved to approve Marilyn K. Capron's disability. Seconded by Member Turcotte, the motion passed unanimously.

Member Turcotte moved to approve Ann P. Hall's disability. Seconded by Member Layman, the motion passed unanimously.

Member Dubbs moved to approve Verlin C. Salois' disability. Seconded by Member Greenfield, the motion passed unanimously.

Member Dubbs moved to approve Kelly Shaw's disability. Seconded by Member Greenfield, the motion passed unanimously.

OTHER BUSINESS:

2010 MEETING DATES – FEBRUARY 19, MAY 14, SEPT 10, & NOVEMBER 19:

JOINT TRS, PERS, & BOI MEETING – FEB. 19, 2010:
Mr. Senn explained the Board of Investments has changed the date of their February meeting to February 9 and 10, 2010; therefore, he proposed since the

Actuaries were going to be at the May 14th TRS Board meeting a joint TRS, PERS, and BOI meeting could be scheduled to coincide with the May meeting. The consensus of the Board was to have a joint TRS, PERS, and BOI meeting on May 13, 2010, and the TRS Board meeting May 14th.

MOTION/VOTE: Member Dubbs moved the 2010 meeting dates be February 19, May 13 and 14, September 10, and November 19, 2010. Seconded by Member Pancich, the motion passed unanimously.

2009-10 GOALS AND OBJECTIVES:
Mr. Senn reviewed the revisions made to the 2009-10 goals and objectives discussed at the May board meeting, and the changes made following that meeting and recommend the Board adopted the 2009-10 Goals and Objective as amended. Mr. Senn also remarked on the Board's Commitment Worksheet which assigned tasks to be completed over the next year. One of the tasks discussed hiring a Communication Officer; however, because the Board decided to postpone hiring a Communication Officer some of the tasks, including writing and developing newsletters, would need to be reassigned.

MOTION/VOTE:
Member Layman moved to adopt Goals and Objectives as amended. Seconded by Member Dubbs, the motion passed unanimously.

BOARD MEMBER COMMUNICATION POLICY AND POLICY ON POLICIES:
Mr. Senn reminded the Board that these draft policies were first reviewed by the Board in May 2009 and that the policies are now being recommended for formal adoption. TRS staff made minor editorial changes which were highlighted in the Board packet.

MOTION/VOTE:
Member Turcotte moved that the Board adopt the Policy Governing Policy on Policies. Seconded by Member Greenfield, the motion passed unanimously.

MOTION/VOTE:
Member Dubbs moved to adopt the Board Member Communication Policy. Seconded by Member Greenfield, the motion passed unanimously.

LUNCH 12:00 PM

FINANCIAL STATEMENTS, BUDGETS AND DELINQUENT AGENCY REPORTS:
Dan Gaughan summarized the Financial Statements, Budgets and Delinquent Agency Reports and reviewed with the Board how the financial statements were compiled utilizing the State's accounting system (SABHRS). Mr. Gaughan reminded the Board that one particularly big number that does not flow through the interim process or show up on the financial statements is the Market

Appreciation or Depreciation of Investments. Mr. Gaughan commented that this number could make a big difference in the financial statement.

Mr. Turcotte asked a question regarding the definition of Uncleared Collections. Mr. Gaughan explained that when the employer contributions are collected they are deposited in the State Treasury System and labeled Uncleared Collections until the payroll is edited and balanced.

UPDATE ON IT STATUS:
Bill Hallinan reported the new system had been purchased and delivered to the TRS. However, it was decided to wait on buying the secondary backup system until there was a place for it in the State's data center. The delay will also give TRS time to learn the new system and take advantage of any future reduction in price. Mr. Hallinan stated that the new primary system was up and running and doing well. He offered to give the Board a tour in February when the full system would be online and fully operational.

NCTR ANNUAL CONFERENCE REPORT:
Mr. Senn and Member Layman reported on the 2009 NCTR conference held in Washington D.C.

INVESTMENT REPORT:
Member Turcotte gave a brief summary which mentioned that the Board of Investments is still considering Hedge Funds but not in the near future. No near term inflation was expected in the next year and a half and interest rates would probably stay low for 9 months or so.

PERSONNEL COMMITTEE REPORT:
Board Members Dubbs and Layman meet with Jim Kerins to complete Mr. Senn's performance evaluation. Mr. Dubbs reported that the Committee gave Mr. Senn mostly outstanding ratings, as our Executive Director he is doing an excellent job. He also thanked Mr. Kerins for assisting with the evaluation process.

LEGAL COUNSEL'S REPORT:

SETTLEMENT OFFER – WESLEY YOUNG:

MEETING CLOSED:
Chairperson Peiffer directed the meeting to be closed at 2:06: PM to receive advice from counsel and discuss strategy in a legal matter.

MEETING OPEN:

MOTION/VOTE:
Member Greenfield moved that the board approve settlement of this issue upon the material terms as set forth in the proposed settlement agreement before the Board today, with TRS staff authorized to make only clerical changes necessary to finalize the settlement agreement, without varying the material terms of the proposed agreement.

Member Greenfield also further moved that, should Mr. Young ultimately not execute the settlement agreement as approved by this Board, that TRS is directed to take all necessary steps to give effect to the original determination of the Board in this matter.

Seconded by Member Robert Pancich, the motion passed unanimously.

LEGAL SUMMARY:

Bowman
Ms. Pizzini informed the Board that the final settlement agreement in the Bowman matter had been fully executed and approved by the District Court as the Court's final determination of the appropriate beneficiary of Mr. Bowman. Ms. Pizzini advised the board that, based on the designation of the appropriate beneficiary, a benefit adjustment was being made to recover the TRS overpaid benefits from the date of Mr. Bowman's retirement, and that future administration of the benefits by TRS would be no different than for any other retired member's beneficiary – any terms of the settlement agreement requiring distribution of benefits beyond normal payment to the designated beneficiary are terms entirely within the responsibility of the two defendants to administer.

Fuller
Ms. Pizzini informed the Board that Mr. Fuller had executed a settlement agreement with the Montana Department of Corrections (DOC) whereby the DOC would remit $50,000 to TRS to be credited to the principal amount owed by Mr. Fuller for overpaid benefits. The $50,000 payment has been received from DOC. TRS is not a party to the agreement. TRS staff will send a letter to Mr. Fuller acknowledging receipt of the $50,000 payment and updating the information to Mr. Fuller regarding the amount now owed, including interest that continues to accrue until fully repaid.

Mavencamp
Ms. Pizzini informed the Board that discovery continues in the contested case with Mr. Mavencamp until December 31, 2009, and that hearing is scheduled for March 25, 2010. Ms. Pizzini reminded the Board that ex parte communications between TRS staff or any other party and any Board member pertaining to the Mavencamp matter are prohibited pending the Board's final decision in the matter.

Farrier
Ms. Pizzini reminded the Board that Mr. Farrier's petition for judicial review based on TRS' refusal to recalculate his retirement benefit to include service credit for his time under the ORP will be heard in oral argument before the District Court (Judge Seeley) on December 1, 2009, at 10:30 a.m.

BOARD FIDUCIARY DUTY AND LEGISLATIVE PROPOSALS:
Ms. Pizzini discussed with the Board some of the issues related to the Board's fiduciary duties in light of the work being done by the SAVA Committee to review and recommend legislative changes to the retirement system. Ms. Pizzini reminded the Board that its fiduciary duty of loyalty may bear upon the Board's ability to "participate in" or "support" a process that may have an objective of reducing benefits to current members.

Ms. Pizzini reminded the Board members most of them are also members of constituencies that have substantial interests in the benefits provided by TRS, and that people will be interested in their knowledge and views of the SAVA Committee process and recommendations.

Ms. Pizzini cautioned that Board members should be thoughtful in communicating their viewpoints and positions pertaining to issues that may implicate their fiduciary duties - "the Board should speak with a single voice." To the extent that a Board member is presenting his/her personal views, he/she should take care to make clear that they are not speaking on behalf of the Board or the retirement system. Ms. Pizzini indicated that the issue of the Board's fiduciary duties on this point will be considered further if necessary as the work of the SAVA Committee progresses.

SUMMARY OF ISSUES:
Mr. Senn presented a quick review of the topics discussed. One of the subjects discussed was where, in the future, would supplemental funding for retirement benefits come from. Some of the choices that could be considered, which would certainly be reviewed by the courts, might be removing the GABA and or raising contributions for both employer and employee by ten percent. Mr. Senn wanted to bring this to the attention of the Board so this topic could be discussed in advance with an expectation the issue could possibly be raised during the 2011 Legislation session.

RETIREMENT REPORTS:

SERVICE RETIREMENTS AND SURVIVOR BENEFITS:
Mr. Senn proceeded to give the Service Retirements and Survivor Benefits report for the last quarter.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 2:58: PM.

Chair: _____

Executive Director: _____

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